Commission of Inquiry
into
Residential Tenancies

The Origins of Rent Regulation in Ontario

W. T. Stanbury and Peter Thain

Research Study No. 17

THE ORIGINS OF RENT REGULATION IN ONTARIO

by

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PREFACE AND ACKNOWLEDGEMENTS

This study is one of three prepared in draft form prior to Stanbury's testimony before the Ontario Commission of Inquiry into Residential Tenancies which began on October 9, 1984. The other two volumes are as follows:

(i) W.T. Stanbury, The Normative Bases of Rent Regulation, Research Study No. 15 (Toronto: Ontario Commission of Inquiry into Residential Tenancies, 1985); and

(ii) W.T. Stanbury, The Normative Bases of Government Action, Research Study No. 16 (Toronto: Ontario Commission of Inquiry into Residential Tenancies, 1985).

This study was prepared subject to an important constraint. The total time available for all three studies was only three months. Therefore, for the details of the origins of rent regulation in Ontario we have had to rely heavily upon newspaper accounts. We were unable to interview a number of the key participants in the events in 1975 that led to the imposition of rent controls. However, because the issue was reported in so much detail, we believe that we have been able to compile a solid account of the events leading to rent regulation. Subsequently, we had time to revise the study and to add Chapter 9 which looks at rent controls in Ontario a decade after they were enacted.

We are indebted to the staff of the Word Processing Centre in the Faculty of Commerce for extensive and cheerful assistance in the preparation of the manuscript. In particular, we wish to thank Manon Thibault and Nancy Thompson. We are also grateful to John Todd and Don Jack for their very helpful comments, and for their good humour under pressure.

W.T. Stanbury and Peter Thain
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February, 1986

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Chapter 1

INTRODUCTION

1.0 FOCUS OF THE STUDY

This study is designed to assist the Commission of Inquiry into Residential Tenancies in understanding the major positive theories that purport to explain why governments intervene in the economy. While normative arguments[1] suggest what a government ought to do, positive theories and analyses of the behaviour of governments seek to explain the "why" of governments' actions and to predict their future behaviour under certain conditions. In particular, the positive theories usually focus on the behaviour of politicians, interest groups and voters in the political arena which results in policies that are designed to alter the distribution of income and/or wealth -- see Hartle (1984).

The second objective of the study is to provide a fairly detailed account of the social, economic and political forces that brought about the imposition of rent controls in the Province of Ontario in 1975. As we shall see, the enactment of rent controls in December 1975 was the culmination of a political process that evolved through most of 1975. The process provides a remarkable illustration of the public choice perspective on why governments implement new policies.

In Canada, it is hard to overstate the importance of developing powerful positive theories of government action. Perhaps because the normative arguments for government intervention have been so effective, the size, and scope of government in Canada is enormous. Indeed, Howard and Stanbury (1984) conclude that "Canada has become a government-centred society". In support of this conclusion, they show that:

- Expenditures by all levels of government jointly amount to over 45% of G.N.P. in constant 1971 dollars. Transfer expenditures (i.e., purely redistributive payments) now exceed exhaustive expenditures. Governments collectively employ about one-quarter of Canada's employed labour force, more than one-half of whom work for Crown corporations.
- Government regulation is ubiquitous. About 30% of G.N.P. is subject to direct regulation (price and/or entry controls) of varying degrees.
- Federal "tax expenditures" or statutory exemptions, deductions or tax credits, if they were paid as subsidies, would increase federal expenditures by about 50%. These tax expenditures are heavily biased toward higher-income families.
- There are over 400 federal Crown corporations (including subsidiaries) and over 200 provincial Crown corporations (excluding subsidiaries). Thirty-nine of these firms were among the 500 largest non-financial enterprises in Canada in 1983. All federal Crown corporations now have more employees than do federal departments.
- Federal and provincial governments hold voting shares in over 300 mixed enterprises. These equity investments by governments amount to about 7.5% of all equity capital in Canada (Elford and Stanbury, 1985).
- Loans and loan guarantees by the federal and provincial governments represent an important source of financial capital in several sectors, e.g., housing, agriculture and export financing. Substantial subsidies are often embedded in these loans/guarantees -- one estimate put the amount at about $1 billion in 1979. This figure does not include the more recent "bailouts".
- Although it is hard to document precisely, there is evidence that governments treat certain privately-owned firms as "chosen instruments" of

public policy, e.g., Dome Petroleum, Nova Corp, Mitel Inc. The longer-term implications of this approach to government intervention are not clear.

- Finally, there is evidence that the federal government is making greater use of suasion to effect its purposes without resorting to more coercive governing instruments that require legislation, e.g., the "6 and 5" program 1982-84, and the efforts to induce Japan to "voluntarily" restrict its export of cars. See Stanbury and Fulton (1984).

Why has government grown to become such a large part of our economic lives? What forces bring about new government actions to alter economic behavior? Stanbury (1985b) argues that from a normative perspective all government actions are designed to do three things: improve the efficiency with which resources are allocated; alter the distribution of income; or create rights. But understanding the myriad arguments for government intervention does not explain why the political process produces an act of intervention.

McKie (1974, p. 9), writing of regulation, could be speaking equally well for government intervention generally, when he stated: "regulatory 'goals' emerge from a complex social process in which public opinion, the pressure of interest groups, and political organizations interact through real time. They do not spring fully-armed from the brow of the theoretical economist." Activities are not regulated because they are failing for some reason to allocate resources in the most efficient manner. Government intervention, and its objectives, are rooted in historical and political forces--which is not to say that the objective may also be consistent, ex post, with some theoretical (normative) rationale. McKie (1974, p. 9) puts it as follows: "Regulation usually is invoked because a large segment of the public feels that the market produces inequitable or unfair results, or because the industry has failed catastrophically in some highly disequilibriated episode, or because the industry itself cannot live with the free market and comes to the government asking to be regulated." As he wryly observes, "Paretian optimality [allocative efficiency] is seldom uppermost in the minds of any participant in this process."

There is, therefore, a need to describe and analyze positive theories of government action with a view to understanding what forces produce a decision by a government to influence economic behaviour.

2.0 POSITIVE THEORIES VERSUS NORMATIVE ARGUMENTS

March (1978, p. 588) notes that

> according to conventional dogma, there are two kinds of theories of human behavior: descriptive (or behavioral) theories that purport to describe actual behavior of individuals or social institutions, and prescriptive (or normative) theories that purport to describe optimal (or desirable) behavior. In many ways, the distinction leads to an intelligent fruitful division of labor in social science reflecting differences in technique, objectives and professional cultures.

Positive theories or explanations of government action are designed to be objective and without normative premises. Such theories attempt only to explain and/or describe, but not to evaluate according to normative criteria. Positive theories of government action are concerned with what is rather than what ought to be. In our view, the normative bases of government action are propositions advanced to indicate why and under what conditions it is desirable for society to take collective action in the form of government intervention to influence the economic behaviour of private sector actors.

There is a difference between saying what is the case; what ought to be the case; and what is necessary or instrumentally useful given what ought to be the case. To go from the first to the second or third statement requires some normative premise on which to predicate the subsequent normative proposition.

"Positive analysis examines what transpires independent of and as a necessary prelude to judgement and evaluation" (Samuels, 1978, p. 62).

In the public policy context the emphasis in positive theories is on explaining why new legislation was enacted or why an existing policy was altered in a significant way. There is also an emphasis on predicting what is likely to occur under certain conditions. No consideration is given to whether or not the government action is desirable in some sense. In general, positive theories of government action tend to focus on political factors. Therefore, the role of interest groups, the motivation of politicians and the behaviour of marginal voters (or voters in marginal constituencies) are central in positive theories of government intervention. See, for example, Hartle (1984).

This conventional distinction between positive and normative analysis can be somewhat illusory and reflects the fact that "economists have a rather guilty conscience about values" (Evans, 1982, p. 454). The distinction can be illusory, because, as Evans (1982, pp. 454-55) reminds us, the analysts' values enter into positive theories as a preanalytical cognitive act: "What we choose to study, how we define the essential properties of the objects of analysis, and what we think are their significant, as opposed to incidental, inter-relationships, all depend on our value system." Moreover, "positive analysis in practice always embodies a number of simplifying assumptions, empirical judgments, and often just plain guesses, to move it across the gaps in which empirical evidence is missing, or more commonly ambiguous. In this process, of course, value judgments play an inevitable role." Therefore, in proposing and testing positive theories, the careful analyst ought to make the judgmental aspects evident and the value judgments as explicit as possible. (This is, of course, a normative proposition in itself, but probably a widely held one.)

3.0 STRUCTURE OF THE STUDY

This study has two major parts. The first, which consists of Chapters 2, 3 and 4, examines the more important positive theories that seek to explain why governments intervene in the economy. The second major part of the study -- Chapters 5 to 8 -- consists of a case study of the origins of rent regulation in Ontario in 1975. New public policies are the result of political decisions taken in response to a combination of forces, economic, social and political. This case study provides an excellent illustration of how economic pressures, interest group agitation, political competition for votes in an election campaign, and other factors combine to produce a new act of government intervention.

To go back to the beginning, Chapter 2 describes and analyzes the public choice approach to positive theories of government action. The core of this approach deal with the implications of rational, self interested behaviour in political markets in which political parties compete for the support of voters in a democratic political system. As we shall describe, the behaviour of all the actors, and policy outcomes are strongly influenced by the existence of imperfect knowledge (uncertainty) and costly information.

Chapter 3 discusses a number of more specialized positive theories of government intervention. A number, for example, the economic theory of regulation, and regulation to alter the speed of economic change, were developed to explain intervention in the form of regulation. However, it will be seen that these theories can be quite readily generalized to other types of government intervention. All of the theories discussed in Chapter 3 are designed to explain government action designed to alter the distribution of income, rather than to improve the efficiency of resource allocation. In

Chapter 4 we explore the idea that some policy actions may be designed more to alter the perceptions of voters than to produce a more substantive outcome. Recognizing that in politics the perceptions of voters are the politician's reality, we examine the role of "policies for show" or symbolic reassurance.

With Chapter 5 we begin the case study of the origins of rent regulation in Ontario. It contains both an overview of the major events and, more importantly, it discusses the major strands of a theory designed to explain why rent controls were enacted in December 1975. The remaining three chapters of this study trace out the history of events and actions that resulted in the rent control legislation. Chapter 6 deals with the period from early 1975 when rent control emerged as a significant political issue to August 11 when the Premier announced there would be a general election on September 18.

Chapter 7 describes the role the rent control issue played during the five-week election campaign. As we shall see, the issue became one of the most important in the campaign and all three parties engaged in a "bidding war" for votes on this issue.

In Chapter 8 we describe the events and political pressures during the three months between election day and the enactment of the new rent legislation. In particular, we note the importance of the announcement of wage and price controls on October 13, 1975 by the federal government, and the role of the opposition parties in influencing the legislation introduced by the minority govenment of William Davis.

Finally, in Chapter 9 we review the remarkable events of 1985 which saw Premier Davis resign, a general election produce a minority Conservative government, and a formal agreement between the Liberal and New Democratic parties which permitted the Liberals to form the Government after 42 years of

Tory rule. Of particular relevance for this study, the general election campaign saw a repetition of the "bidding war" of 1975 as all three parties promised to make rent controls more stringent.[2] The NDP and the Liberals promised to extend the scope of the controls to previously exempt buildings constructed after 1975.

Notes to Chapter 1

1. The normative arguments for government intervention in general are summarized in Stanbury (1985b). The normative arguments for rent control in Ontario are discussed in detail in Stanbury (1985a). But see also Fallis (1984).

2. An analysis of the design characteristics of Ontario's system of rent controls and their evolution between 1975 and 1984 can be found in Stanbury and Vertinsky (1985).

Chapter 2

THE PUBLIC CHOICE APPROACH TO UNDERSTANDING GOVERNMENT ACTION

1.0 INTRODUCTION

There are many positive theories that attempt to explain why governments intervene in the economy or to predict their behaviour under certain circumstances. In this chapter we discuss one of the most fruitful broad approaches to understanding the forces that produce acts of government intervention, the public choice approach. The term public choice refers to the processes by which public collectivities (e.g., governments, individual bureaus) make decisions. The term is in contradistinction to the process by which individuals or private economic units (firms) make decisions, presumably to maximize their welfare.

We have chosen to emphasize the public choice approach to understanding the bases of government action for several reasons. First, it embodies two elements that appear to be of great significance in policy making: the activities of interest groups, and the motivation of politicians to get elected and stay in power through the practice of marginal voter politics. The public choice approach integrates these two elements into what appears to be a more realistic (some would say cynical) analytical framework.

Second, the public choice approach, while not denying that constitutionally-determined institutions, structures and processes matter, and that history also shapes all of these elements, argues that these aspects of the policy system can be taken as the framework in which interest groups and politicians interact to make policy. The public choice approach applies both to

Canada and the U.S. despite the fact that the structure of governmental institutions and allocation of powers are quite different. Despite the important differences, two critical factors are the same: politicians wish to attain and retain power -- to do so they must offer policies that command the support of sufficient voters to form a government; and interest groups wish to influence public policy to achieve their own objectives.

Third, the public choice approach focuses on outcomes -- specifically who gets -- what as it is based on one of the strongest propositions concerning individual behaviour, namely self-interest. However, the approach does not rule out the idea that for some the process is as important as the substantive policy outcomes. The analyst using the public choice perspective tries to understand who benefits and who loses in terms of the choice of particular processes. At the highest level of abstraction, the choice of a constitution or set of rules determining in general terms how other rules may be made, can be analyzed not as an exercise in differing concepts of the public interest, but as an exchange process between interest groups and politicians.

In the same vein, the public choice approach does not ignore ideology. Rather ideology is seen not as an end in itself, but as a means by which political actors (voters and politicians) economize on information and reduce the cost of information processing. Moreover, it is hard to find a successful politician whose ideology would lead to decisions much different from those predicted on the basis of his electoral self-interest.

In general terms, positive theories in the public choice approach have the following characteristics:

- They recognize that decisions by a government to intervene in the market economy are political, rather than technical decisions.

- They assume that the various actors involved in these political decisions (voters, politicians, bureaucrats, interest groups) behave in a rational, self-interested fashion. Each is "looking out for number one", but their behaviour is influenced and constrained by other actors as well as the "rules of the game". As Hartle (1984, p. 79) notes, "the public choice approach emphasizes the incentives under which the principal actors play their parts in each of the unique public decision-making games".
- They take into account, in varying degrees, a number of the characteristics of the "real world" (e.g., imperfect knowledge, costly information, variations in stakes, legal constraints) that shape the functioning of democratic political processes.
- These theories often make use of analogies to processes in economic markets.

Breton (1976, pp. 13-14) points out an interesting bias that existed (and still exists to some extent) in the literature on the role of government. "Some half a century ago, governments were usually conceived--at least in the Anglo-American literature, although not in the Continental, and especially not in the Italian literature--as institutions dedicated to the singleminded pursuit of the public good--that is politicians were assumed to be motivated not by self-interest, but by a desire to improve the position of the governed." He suggests that the idea may have evolved from the much earlier belief that authority is of divine origin. While normative theories of government actions abound (see Stanbury, 1985b), such naive views of government as an institution have increasingly been replaced by more realistic perceptions. In formal terms, these perceptions are embodied in some of the positive theories of government action, particularly those associated with the public choice literature (Mueller, 1979).

Samuels (1978, p. 57) indicates that one of the strengths of public choice theory, is that it provides a more realistic formulation of the governmental process. For example, many public choice theorists would argree with the statement that "government is a mechanism through which individuals act collectively to improve their private utility. Government is a vehicle through which is promoted the self interest of whomever can get into a position to control it."

Samuels (1978, p. 64) also notes that "the conduct of positive public choice theory is fraught with opportunities for the intrusion of subtle normative premises ..." He points out that there is an important difference between describing certain more or less objective features of how collective decisions are made and "judging those features to be adequate, inadequate, or excessive; effective or ineffective; and/or successful or a failure" (p. 58). "More" or "less" is not the same type of statement as "too much" or "too little."

It is recognized, however, that behind the political calculus may well lie substantive problems attributable to various types of "market failures." These are impediments to the functioning of markets that prevent them from achieving allocative efficiency, i.e., optimal price and output--a point at which it is not possible to rearrange inputs or outputs so as to make one person better off without also reducing the economic welfare of at least one other person in society. Market failures include natural monopolies, externalities, imperfect information, destructive competition, public goods (in a technical sense), and common property resources. (See the discussion in Stanbury 1985b, Ch. 2).

At the same time, we must not lose sight of the fact that politics is a battle over "who gets what". In other words, most of the participants in public policy-making are interested in altering the distribution of income rather than improving the efficiency of resource allocation. The structure of incentives in a democracy does not favour allocative efficiency.

2.0 DOWNS AND THE PUBLIC CHOICE APPROACH

Downs (1957, p. 136) offers an "economic theory of democracy" that "explains how the governors are led to act by their own selfish motives." It is a forerunner of what is now called the public choice approach to positive theories of government action. We use Downs' model as the centre-piece of our analysis in this chapter and enrich it with the insights of others.

2.1 Definitions and Axioms

The definitions employed in Downs' model are the following:

- Government is a social agent with the legitimate power to coerce all other actors in society, i.e., individuals, firms, unions, etc.
- A democracy is a political system in which there is competition among political parties for control of the executive. The party (or coalition) with a majority of seats forms the government. Losers don't prevent winners from taking office, nor do winners prevent losers from contesting future elections. Each sane, law abiding citizen has one [non-transferable] vote in each election.

Downs (1957, p. 137) then formulates the following axioms:

- Parties are coalitions of individuals who seek office to enjoy the income, prestige and power that go with holding power.
- The winning party has complete control over the government's actions until the next election. (In short, there is no implementation problem in the form of bureaucratic foot-dragging.)
- Government's economic powers are unlimited--in other words there are no constitutional constraints on the power of the government over economic matters, presumably including private property.
- The incumbent party has unlimited power, but it can't restrict the political freedom of opposition parties, unless they seek to overthrow the government by force. (The first statement is a very strong assumption that is unnessary for the positive theory of government policy.)
- Each agent (politician, voter, interest group, etc.) behaves rationally, i.e., proceeds toward its goals with the minimum use of scarce resources and acts only where the marginal benefit exceeds the marginal cost.

2.2 The Role of Policies/Government Action

The central hypothesis is that "political parties in a democracy formulate policy strictly as a means of gaining votes" (Downs, 1957, p. 37). Politicians do not seek office to implement an ideology embodied in certain policies or to serve a particular interest group. "Rather, they formulate policies and serve interest groups in order to gain [or retain] office." This is not to say that ideology plays no role. In fact, "lack of information creates a demand for ideologies in the electorate" (Downs, 1957, p. 142).[1]

2.3 The Role of Politicians

Politicians, like the other actors in the model, are assumed to act in a rational, self-interested fashion. They seek political office because the holding of office is assumed to maximize their welfare in terms of income, power and prestige of being in office. Hobbes, a shrewd and still relevant observer of human nature, put it this way: "The business of the World consisteth in nothing else but a perpetual contention for Honour, Riches and Authority." In Hartle's (1984, p. 66) view, it is the "proximate objective" of politicians "to be elected (or re-elected) as a member of a government in power and to obtain positions of ever-increasing power in that government." Breton (1976, p. 14) observes, however, that, "as in the rest of us, self-interest in politicans is not inconsistent with a degree of altruism."

Politicians, in this model, are entrepreneurs "selling policies for votes instead of products for money." Bennett and Di Lorenzo (1983, p. 4) put the matter a little differently, but the point is the same: "...politican(s) use the machinery of government to bestow favors on special-interest groups that, in turn, provide votes and campaign contributions for the next election battle..."

The politician's life, however, is frequently not an easy one.[2] Certainly it is fraught with a variety of risks: defeat at the polls; the failure to obtain a position of real power, i.e., a cabinet post; the possible loss of reputation while being in cabinet; enormous stresses on family life; and the uncertainty of a patronage appointment when out of office.[3] Cabinet ministers, aided by polls and the analytical capability of numbers of public servants, have the difficult job of identifying those policies that will attract or retain political support. Despite its great power, the cabinet must necessarily deal with a number of other interests that can constrain its behaviour: the bureaucracy, the courts, other levels of government, and public opinion particularly as represented in the media. Hence there is a very important role for politicians in building a consensus or at least ameliorating the inevitable conflicts in public policy formulation. As Hartle (1979, p. 35) notes,

> Most of us seem to ignore or denigrate the politician's role as a consensus builder. No politician would prefer a painful compromise over a decision supported unanimously.... Many of the rituals that attend the political/legal process can be thought of as serving the function of helping to legitimize the outcome -- an outcome which may be distasteful to the losers.

Most politicians don't get into the cabinet and many don't even sit on the government side. They never experience the power and prestige of being at the centre of the political process. The resources, and scope of action for individual backbenchers is limited, although in recent years there have been a number of proposals to enlarge the role of the "ordinary member".[4] They seem doomed to failure as these reforms would reduce the power and prerogatives of the cabinet, which with the prime minister, is the apex of power.

When we say that politicians "sell" policies in exchange for votes the reader should not draw a pejorative conclusion. The essence of democratic governments is that they move by persuasion and that they respond -- albeit imperfectly and with a lag -- to the desires of the people. The legitimate use of coercion by the state is based largely on the governors' exercise of power with the consent of the governed, and that they are accountable for the exercise of that power. To "sell" policies is to persuade people and persuasion is easiest and least coercive when what is being offered is, in fact, desired by those to whom it is offered. Hence, in a democracy, public policies -- in broad terms -- must reflect the desires of the electorate. Abraham Lincoln put it this way: "Public sentiment is everything. With public sentiment nothing can fail. Without it nothing can succeed."

"Public sentiment", however, is not entirely exogenous to politicians or to others: it can be influenced to some degree on some issues. Hartle (1979, p. 35) argues that "without the efforts of some politicians to nudge the system toward a slightly different and unpopular course, from time to time, the ability of a nation to adapt to changing circumstances would undoubtedly be less than it is". So the effective and ambitious politician is not an entirely passive interpreter of polls who then "gives the people what they say they want". There is scope for leadership:

> Political leadership does not usually entail that the outstanding politician personally discover a new theory or a new concept or a new policy or a new constraint, or foresee emerging trends hidden to others. Rather, it means that the rare politician is able to discern in the discoveries of a few others an insight "just slightly ahead of its time", and through a mixture of persuasion and demonstration bring it to bear on policy decisions before it has been widely recognized by voters (Hartle, 1979, p. 35).

2.4 The Role of Political Parties

The imperatives of political competition in a democracy imply that "the government always acts so as to maximize the number of votes it will receive" (Downs, 1957, p. 137). Where the electoral system uses geographic constituencies, this translates into seat maximization. And within each constituency (or riding), as we shall see, it is the interests of the marginal or uncommitted voter that must be most closely attended to.[5] Hartle (1984, p. 67) puts it this way: "parties, leaders and candidates increase their likelihood of success (obtaining the largest number of seats) by seeking to appeal to the uncommitted voters in marginal constituencies... At the extremes, rewarding the faithful is unnecessary and rewarding staunch opponents is futile."[6]

Trebilcock and Hartle (1982, p. 35) indicate how marginal ridings and marginal votes "can be identified operationally, albeit crudely". They continue:

> Marginal ridings are those where the party affiliation of the MP elected in the riding differs from that of his or her predecessor x or more times in the previous y elections. Once these ridings have been identified (a simple matter except when redistribution of votes has taken place), a scientific survey is carried out in each of them. The survey has two purposes:
>
> 1. To identify the voters who switched party affilitaion in one or more previous elections.
>
> 2 To determine their characteristics (e.g., age, sex, occupation, marital status, income, ethnic origin, and so on).
>
> These are the marginal voters. The next obvious step is to ascertain, again through surveys, the policy issues to which they attach the most importance. From there it is a relatively short step to the production of an election platform that is most likely to attract their support.

This statement merits two comments. First, marginal ridings may also be defined as those in the previous election that were won/lost by the party in power by only a small fraction of the total votes cast, perhaps five or ten per cent. In other words, if a small number of voters switched parties, the riding could be won by another party. Of course, more complex measures of the marginality of ridings have been developed.

Second, and more importantly, we would challenge the idea that it is fairly easy -- as Trebilcock and Hartle suggest -- to design an election platform once a party understands which issues are most salient for marginal or swing voters.[7] The problem lies in a fact emphasized by Hartle (1979, p. 68) in an earlier book, namely "full-line forcing". Each political party offers a full line of policies in which specific policies may be added or deleted as the party tries to find the best package. As Hartle (1979, p. 68) remarks, "Local party candidates can be thought as retailers of the full line of policies offered by one of the few competing suppliers [parties]". The problem is that the mix or line of policies that maximizes the party's overall chances, i.e., retaining its "committed" support and attracting marginal voters in sufficient number, may not maximize the party's chances of electing a member in certain swing ridings. Hence local candidates will try to reshape the platform to increase their own electoral chances.

More generally, it is necessary to determine the importance of issues or policy programs[8] in determining the outcome of election campaigns. It is usually argued that in Canadian general elections the quality of individual candidates, and the exact nature of a party's policies are not very important. The perceived characteristics of the leader, the condition of the economy and the ability of the party to communicate an attractive image in the media, particularly television, are much more important factors in electoral success. A confidential memo prepared by a long-time senior advisor to the Liberal Party -- on the basis of extensive research -- indicates that the following four factors largely explain voting behaviour:

1. The activity and strength imagery of party leaders is the fundamental motivating factor behind voting behaviour. Also of great importance in

influencing voter behaviour is the degree to which each leader is conceived of as understanding and wishing to work to the average voter rather than for himself or a special group. This is called "sensitivity to and real interest in the voter", or more simply, rapport.

"With few exceptions, voting behaviour is influenced to a much greater extent by the party leaders than by the parties, the candidates representing the parties in each electoral district, or by the party platforms in specific terms." "Imagery of strength of the leaders invariably is associated with imagery of activity in politics, and either strength or activity imagery may be the prime causative agent affecting voting behaviour." Charisma in politics means the leader is perceived as understanding and being keenly interested in helping the average man/voter. Since the voter has neither the time nor ability to understand the welter of issues the government of the day must deal with, he focuses his choice upon the party leader who is expected to act in his best interest and whom he can respect as a man and a leader.

2. The second most important factor is the electors' concepts of man relative to his environment. Research has identified two broad philosophies. One, the political "right", sees the character and behaviour of individuals, except for maturation, is largely immutable beyond one's genetic inheritance and childhood upbringing. They see little value in government intervention in improving the lot of the disadvantaged and they believe that with the incentives of substantial personal reward the more capable will naturally rise to the top. The other philosophy (the political "left") sees the individual's behaviour as largely determined by environmental forces. People are capable of change and government is capable of modifying the social and economic environment to permit individuals to change in beneficial ways. The object of political research is

to identify the number of voters subscribing to these basic philosophical position and various mixtures. It has been argued by successful political analysts that factors 1 and 2 together can predict which party a person will vote for 80% of the time. Specific platform planks (policies) usually have little influence on voting behaviour except as they affect factors 1 and 2.

3. The social-political-economic climate prevalent at any particular time and place influences voting behaviour. If a sense of general well-being does not prevail [at election time], there is a greater tendency for electors to "take a chance on the leader of a party not in power". This factor is analogous to the concept of retrospective voting - see Fiorina (1981).

4. Voting behaviour is influenced by the proportions of all electors who have a sense of loyalty to particular parties or persons, and the strength of any such loyalty. ...Political research can identify the number and characteristics of voters who remain loyal to the same party and who have changed their preferences. It can also identify the reasons for these shifts in preference and the relative intensity of party preferences. The so-called undecided vote is usually greatly over-estimated in most polls. Most people in this category are simply offering a polite refusal to give their preference or voting intention.

2.5 Marginal Voter Politics in Practice

Escott Reid's (1979, p. 21) account of the operation of the Saskatchewan Liberal machine prior to 1929 is still highly relevant today. He noted that "the preliminary work of the constituency organization was to divide the voters into those who were strong Conservatives, those who were strong Liberals and those who were doubtful". He explains the significance of this tripartite classification. It "was to get the greatest results out of the efforts of the party workers, both between elections and on polling day. The workers ... had four objects in view in their work which went on continuously between elections: the doubtfuls must be persuaded to Liberalism, the Liberals must be kept in line, the Conservatives must be weakened, and the path of Liberal supporters to the polls must be made as easy as possible" (Reid, 1979, p. 23). In particular, party workers focused their attention on "key men" who were "doubtfuls" or already in the Liberal camp. They were "key men" because they might influence the vote of a dozen or more ordinary voters.

A more modern version of this process is described by Clive Cocking in his book on the 1979 federal general election campaign. He describes the focus of the parties' campaign efforts as follows:

> What all this sound and fury ultimately comes down to is a battle for the hearts and minds of the coin-flipping, hatpin- wielding set: the "undecided voters" in the catch-all phrase of pollsters; the "low interest transient voters" in the (slightly) more precise language of political scientists. The hatpin element represents about 15 percent of the total electorate and, in a country where the total swing in the vote is rarely above five percent, the party which wins most of their votes is likely on its way to forming a government. They're the main target of television-oriented campaigns (Cocking, 1980, p. 182).

Who are these "swing voters"?

> The group is comprised of newly eligible voters, people who are not very interested or knowledgeable about politics and individuals whose voting is irregular. "They're the people who are supposed to be most easily influenced by TV," [according to Fred Fletcher, a political scientist specializing in the role of the media in politics] (Cocking, 1980, p. 183).

What is the relationship between media use, interest in politics and strength of party affiliation? According to Professor Fletcher,

> There is ... about 40 percent of Canadian voters who have a rock solid party affiliation and who are well-informed, heavy users of all news media; there is another approximately 25 percent who are fairly consistent in their voting patterns and reasonably knowledgeable. The bulk of the floating vote is comprised of two groups; about 10 percent of the electorate who have high political interest but are flexible in

> their voting and then the approximately 15 percent low interest transient voters -- the hatpin people. They're most susceptible to the televised political gospel, not only because it's what they're inclined to see, but also because they're primarily motivated by "matters of style or personal qualities of leaders rather than issues" (Cocking, 1980 p. 183).

But the parties cannot ignore their dyed-in-the-wool supporters.

> ...Parties must also be concerned with retaining and activating their own base of support. "There are these highly interested and informed people," said Dr. Fletcher, "who have a party affiliation, but who could be turned off if they didn't think the party was articulating the issues that they agree with." (Cocking, 1980, p. 184.)

In a democracy this responsiveness of political parties to changes in the perceptions of voters or to more accurate information concerning their preferences "are customarily greeted with derision by political observers, who take them as evidence of cynical opportunism or worse" (Hartle, 1984, p. 9). But both political survival and democratic responsiveness dictate that "when voter perceptions change in response to a real or an illusory change in circumstances, an 'unthinkable' policy option can become not only 'possible' but, finally 'inevitable'" (Hartle, 1984 p. 7). Such changes can be construed as "evidence of the effectiveness of interparty competition for voter support -- the foundation of responsible and representative government in the face of changing circumstances and perception" (Hartle, 1984, p. 9).

But even doing the Lord's work costs money. Yet until recently, too little attention has been given to the connection between financing political parties and policy formulation. As Breton (1976, p. 15) points out, "...practically all political theory is formulated in terms of mechanisms for the representation of the preferences of people. The election of representatives, and the orderly succession of one government by another are assumed to operate costlessly....[Hence] the cost of democracy ... had to be borne privately by individuals who entered politics." Since this was not an efficient solution, political parties were created and they absorb a substantial fraction of the costs not borne by the state (taxpayers).

But how do political parties obtain the wherewithal to bear these costs? In Breton's (1976, p. 16) view they obtain it by trading with the private sector. "The trading process can be caricatured as follows: 'if you will donate some money to our party, we will provide you in exchange with a tariff which will allow you to reap monopoly rents of such and such magnitude, or we will allow you to form a professional or trade association that will have the power to set standards, to define the terms of licences, to set the rates that can be charged for services rendered, and so on!" (Breton, 1976, p. 16). In other words, political parties obtain campaign contributions from interest groups in exchange for promises of favourable policies when they gain or retain power. However, as will be shown in Section 4 below, the political exchange process is rather more complicated in reality.

It is critical to appreciate in discussing the motivation of voters, politicians and parties that, while a social function (the supply of public policies) is being performed by harnessing private motives (pay, power, prestige of office), we cannot assume a priori that this behaviour is socially optimal in the sense that collective welfare is maximized.

2.6 A World of Imperfect Knowledge and Costly Information

Downs (1957, p. 139) makes the important observation that, in a world of perfect knowledge and costless information, "the government gives the preferences of each citizen exactly the same weight as those of every other citizen". Moreover, there is no role for interest groups in such a world as each voter not only knows his preferences well, but also is perfectly informed about the likely consequences of every policy in place or proposed by the government or opposition parties. In other words, no citizen can influence another's vote. In the "real" world, however, things are quite different.

We now examine the positive theory of government action under the more interesting and realistic assumptions of imperfect knowledge (uncertainty) and costly information. Imperfect information means that voters are unsure about their preferences, about the effects of past, current and future government policies on their own utility income. It means that parties are uncertain about voters' preferences and about which policies are best able to satisfy them. Because information to dispel (or reduce) uncertainty/ignorance is costly, political parties must obtain the resources to acquire such information.

Hartle's (1984) analysis of policies resulting from "rent seeking" behaviour of politicians, bureaucrats, pressure groups and journalists is squarely in the public choice approach to collective decision-making. It differs little from Downs' formulation of the problem almost three decades earlier. Hartle (1984, p 34) defines "rent seeking" as "an investment of real resources [time, money, expertise] by individuals or interest groups in obtaining favourable (or avoiding unfavourable) government decisions. These decisions involve the redistribution of income/wealth rather than the creation of income/wealth".

Rent seeking occurs in a variety of ways and in a number of forms. It consists of

- expenditures on lobbying to secure favourable legislation or prevent unfavourable legislation--including subordinate legislation created by the cabinet, a minister or a regulatory agency;
- expenditures on efforts to seek favourable (prevent unfavourable) interpretations of the discretionary provisions of existing legislation, policy and programs. The "targets" of such activities include politicans, bureaucrats, regulators and the courts.

- efforts by politicans, bureaucrats, and others to seeking elected or appointed office in the expectation of receiving the pay, power or prestige associated with such offices. (Hartle, 1984, p. 36).

In a world of imperfect information (uncertainty) the arts of persuasion become important. Voters and parties need information to help them achieve their objectives. However, those in a position to finance the acquisition of information are also self-interested. Therefore, imperfect knowledge makes the governing party "susceptible to bribery" in the sense that it is willing to "sell policies" in exchange for the resources to persuade voters to elect them. (Opposition parties sell the promise of what they would do if they attain power.) This form of persuasion takes the form of "free" information to voters to help them make up their minds about the best party to support, Downs (1957, p. 141) points out,

> Essentially, inequality of political influence is a necessary result of imperfect information, given an unequal distribution of wealth and income in society. When knowledge is imperfect, effective political action requires the use of economic resources to meet the cost of information.

2.7 The Role of Voters

The assumption of rational self-interested behavior applies also to voters. They are assumed to vote according to expected changes in their utility incomes (i.e., self-defined welfare) from government activity and the alternatives offered by the opposition parties. Hartle (1984, p. 64) states that the interests of individuals "can be thought of as a bundle of rights to such diverse things as: real and personal property; personal health and reputation; skills; tenure of offices and employment; entitlements to public and private transfer payments; and tax liabilities (a negative right); and access to transportation, communications, legal and other systems." This bundle of rights, less obligations, he calls the individual's Comprehensive Net Worth.

"Political activities [informed voting and lobbying] can be thought of as investments made in the expectation of, in the first instance, maintaining existing right holdings and, in the second instance, expanding those rights" (Hartle, 1984, p. 65). In estimating his utility income from public policies (hence which party to support), the voter, according to Downs, will engage in what has subsequently been called "restrospective voting" (see Fiorini, 1981). That is "the primary factor influencing his estimate of each party's future performance is not its campaign promises about the future but its performance during the period just ending."

Downs (1957, p. 149) points out that "men are more likely to exert direct influence on government policy formation in their roles as producers than in their roles as consumers." The absolute size of their single stake dictates this conclusion. Governments do not attend much to people's interest as consumers "because consumers rationally seek to acquire only that information which provides a return larger than its cost." Ignorance is rational in the sense of being economically efficient. The same is true, Downs (1957, p. 146) points out, that "for most voters in most elections the incentive to become well informed--a costly process--is practically nonexistant". Hence, "the startling conclusion that it is irrational for most citizens to acquire political information for the purpose of voting" (Downs, 1957, p. 147). The problem is that such information is costly (ignoring the substantial amount of "free" information available including the biased/selective information provided by political parties and interest groups) and the expected benefit is trivial in that a single vote almost never swings an election. Hence, "the rational course of action for most citizens is to remain politically uninformed" (Downs, 1957, p. 147).

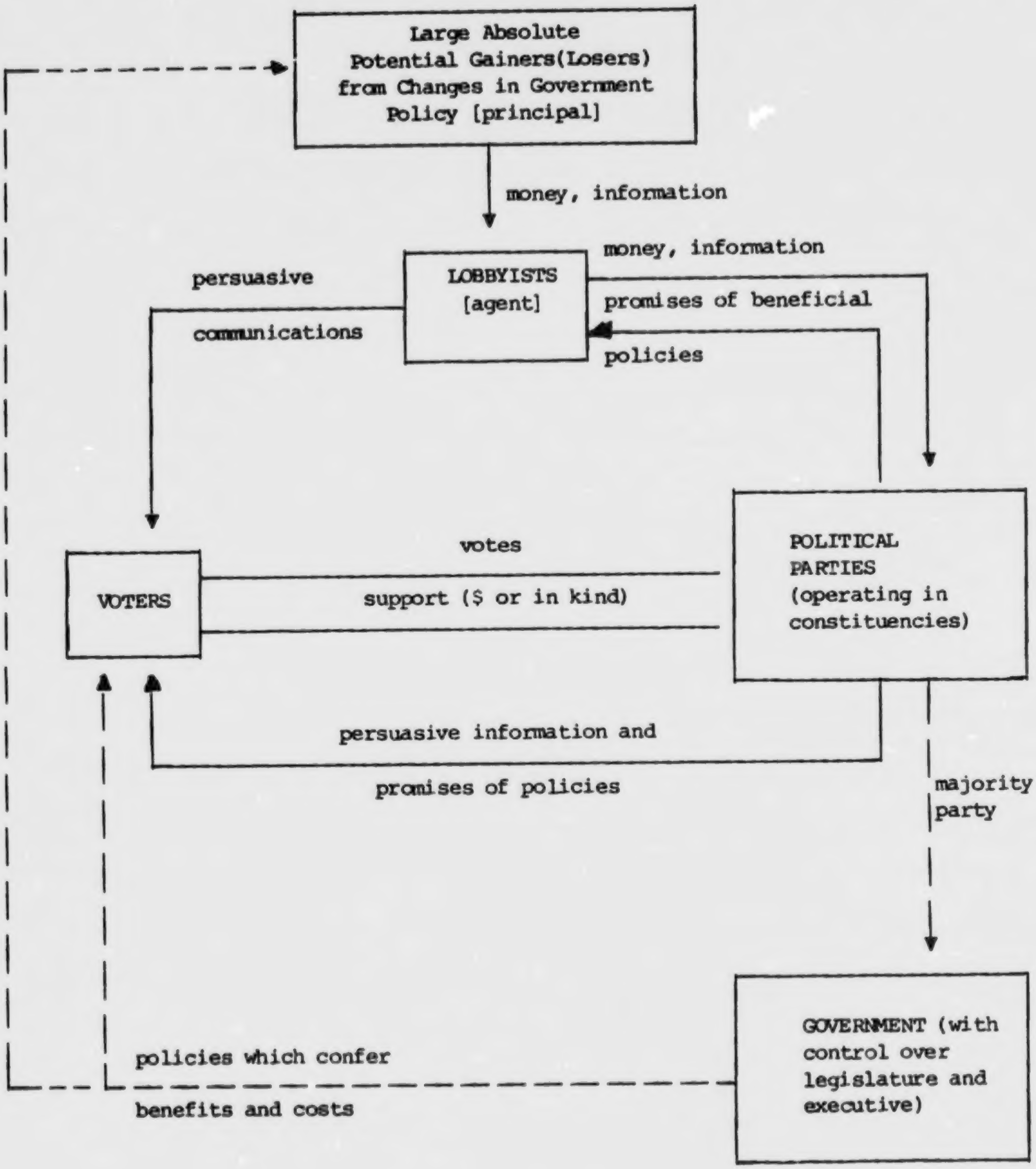
It is the existence of rational ignorance and bounded rationality on the part of voters (i.e., there are limitations on the ability of individuals to acquire, process and respond to information) that "creates possibilities for the provision of subsidized, selective information by groups of voters [including interest groups] to other groups of voters, by groups of voters to political parties and by political parties to groups of voters" (Trebilcock and Hartle, 1982, p. 38). In particular, interest groups representing individuals with relatively concentrated stakes in issues (i.e., where the stake is sufficiently large in absolute terms that it overcomes communication and organization costs and also constitutes a substantial proportion of the individual's income/ wealth), will tend to find it beneficial to provide information to more numerous but dispersed groups of votes who each may have only a small stake in the issue. It is also likely that groups of individuals most constrained by bounded rationality will be the target of parties and interest groups seeking to influence their voting behaviour.

2.8 The Role of Lobbying

Those most willing to provide the resources that politicians need to operate in a world of imperfect knowledge and costly information are those with the biggest stake in the system, i.e., those with the largest amounts of wealth or income susceptible to change as a result of public policy. (We should note that the psychic pain of losing what one already possesses is almost certainly greater than the failure to obtain what one might but does not now have -- see Knetsch et al., 1984.) We should expect therefore, that any inequalities in the distribution of income or wealth at the "beginning of the game" would continue or increase as a result of the political exchange process (sketched in Figure 2-1) in a world of imperfect knowledge and costly information.[9]

Figure 2-1

Model of Exchange Processes in a Positive Theory of Government Action


Large Absolute Potential Gainers(Losers) from Changes in Government Policy [principal]
money, information
LOBBYISTS [agent]
money, information
promises of beneficial policies
persuasive communications
VOTERS
votes
support ($ or in kind)
POLITICAL PARTIES (operating in constituencies)
persuasive information and promises of policies
majority party
GOVERNMENT (with control over legislature and executive)
policies which confer benefits and costs

A principal-agent relationship is created, between those who (largely by reason of the existing distribution of income and wealth) have the most to lose or gain by a change in public policy. They will employ lobbyists (specialists in influencing government/political parties), and arm them with tangible resources and a clear knowledge of the types of policies that are likely to be beneficial or harmful to the principal's interests. Downs (1957, p. 148) describes the lobbyist's task as follows:

> In order to be an effective lobbyist, a citizen must persuade the governing party that the policies he wants either are already desired by a large number of other citizens or are sufficiently beneficial to the rest of the electorate so that it will, at worst, not resent the enactment of these policies.

Downs' model appears to envisage two types of lobbying: that by citizens with relatively small stakes on their own behalf; and that by large stakeholders either acting through agents or dealing directly with political parties. In the latter case, the stakeholder exchanges his political help (e.g., campaign contributions, specialized (costly) and valuable information) for policy favors, a "transaction eminently rational for both themselves and the government." Moreover, as Downs (1957, p. 141) points out, "such favor buyers need not even pose as representatives for the people."[10]

Lobbying requires specialized knowledge of particular policies and their consequences for groups of voters. The level of knowledge is far greater than that required by the rational voter to vote. Lobbying also requires persuasiveness. Both require money as the data in Table 2-1 indicate. Even though campaign expenditures by both parties and candidates are limited by law, the three main parties and their candidates spent $24.8 million in 1979, $26.1 million in 1980 and $42 million in 1984. However, as Table 2-1 indicates, a substantial fraction of total campaign outlays were reimbursed by the federal

Table 2-1

Expenditures on Federal General Election Campaigns, 1979-1984

($ 000)

		1979	1980	1984
Expenditures by				
• Parties	Conservative	$ 3,845	$ 4,407	$ 6,389
	Liberal	3,913	3,846	6,293
	NDP	2,190	3,086	4,731
	Total	9,948	11,339	17,413
• Candidates	Conservative	$ 6,016	$ 5,680	$10,726
	Liberal	6,186	6,074	9,447
	NDP	2,665	2,987	4,479
	Total	14,867	14,741	24,652
Reimbursement from federal government to				
• Parties	Conservative	$ 794	$ 977	$ 1,438
	Liberal	718	910	1,416
	NDP	496	677	1,064
	Total	2,008	2,564	3,918
• Candidates	Conservative	$ 2,868	$ 2,871	$ 5,117
	Liberal	3,594	3,656	4,081
	NDP	1,671	1,886	1,917
	Total	8,133	8,393	11,115

Source: Report of the Chief Electoral Officer Respecting Election Expenses, 1979, 1980, 1984 (Ottawa: Chief Electoral Officer).

government under the Election Expenses Act of 1974: 41% in 1979, 42% in 1980, but only 36% in 1984.

However, these data on campaign expenditures do not include the very considerable and growing expenditures by the parties outside campaign periods. For example, in 1984 the three main parties (excluding candidates) spent $38.8 million of which only $17.4 million was spent on the general election campaign. In other words, the main parties' dependency on political contributions is increasing as they become more institutionalized in their activities between elections. Boyer (1983, p. 1) concludes that "Canada's political parties at all levels have an unquenchable thirst for funds." (More generally, see Stanbury, 1986, Ch. 10.)

Despite the "democratization" of political party financing stemming from the Election Expenses Act of 1974, corporations accounted for over one-half the revenues of the federal Liberals and Conservatives in the 1979 and 1980 general election campaigns. In 1984, including the election campaign, the Tories raised $11.0 million from corporations and $10.1 million from individuals. The Liberals raised $5.3 million from corporations and $5.2 million from individuals. Large corporate contributions -- those over $10,000 -- generated $4.32 million for the Tories in 1984 (n=198) and $2.37 million for the Liberals (n=113). It should be noted, however, that while the two main parties still rely quite heavily on large contributions from corporations, interest groups including trade associations do not give much money to the federal Liberals or the Conservatives. See Stanbury (1986, Ch. 10).

The lobbyist's living depends on providing valuable services to his principal. Essentially, he is an intermediary in an exchange between the large potential gainers or losers (in absolute terms) from policy actions and political parties. In exchange for some combination of money, political support and information, political parties offer the promise of policies favourable to large stakeholders.[11]

Lobbyists seek to influence the party in power in a variety of ways, but in functional terms there are three categories:

- the provision of information about voter preferences, particularly the likely political consequences of future policies and the reponses to existing policies;
- financial contributions (or resources in kind) to permit the party to acquire costly information in a world of imperfect knowledge and to pay for efforts to persuade voters to support the party; and
- the mounting of publicity campaigns designed to convince large numbers of voters to support (or not support) candidates, a party or a particular policy.

Hartle (1984, pp. 69-70) lists the following as "the most important determinants of the formation and maintenance of an organized lobby group":

- the average value of the issue at stake to the individuals who have a common interest;
- the number and geographic dispersion of these individuals;
- the ability of the organization to provide some [individually appropriable] benefit, over and above the pursuit of the common interest through lobbying, as an added inducement to membership; and
- the ability of the organization to minimize the number of "free riders" -- who share in the benefits provided by the organization but would not contribute their share of the costs if they could be avoided.

It is critical to appreciate that, despite the enthusiasm of the pluralists, many important interests do not get represented in the political process. This is true even though the aggregate value of the economic stakes involved are many times that of interests that are able to lobby effectively. They are also much larger than the total costs of lobbying on behalf of the interests that don't get represented. In fact, the benefits of such representation are a public good in the technical sense (Olson, 1965). In a competitive environment, such goods will be undersupplied. They will only be supplied if the benefit to an individual or a small group of individuals able to overcome the free rider problem is greater than the cost of providing the good, i.e., paying the cost of the lobbying effort.

Where the benefits of collective action are widely diffused and small relative to the Comprehensive Net Worth of the individual (to use Hartle's phrase), the interest will remain latent unless (i) members of the group can be coerced into paying dues to finance the lobbying or other representational activities, or (ii) group membership and financial support are necessary to obtain some other non-collective benefit. This latter approach Olson (1965, p. 132) calls the "by-product" theory of large pressure groups. See also Lowi (1969, p. 36).

3.0 THE PUBLIC CHOICE APPROACH RESTATED

To ensure that the public choice approach to a positive theory of government intervention is not lost in the detail, its central elements can be summarized as follows:

(i) Each actor (voters, politicians, stakeholders, lobbyists) acts in a rational,[12] self-interested fashion, i.e., they seek their objectives at the least cost and only act where the additional benefits outweigh the additional costs. They do this in both the economic and political arenas.

(ii) Politicians seek office for the income, prestige and power that are attributable to the holding of office. Other actors maximize their utility incomes broadly defined.

(iii) Political parties (coalitions of like-minded individuals) formulate policies strictly as means of obtaining political support (votes) so as to gain or retain office. Politicians are political entrepreneurs "selling" (exchanging) policies for votes rather than products for money.

(iv) Political competition results in efforts by parties to maximize the number of votes they receive. In a representative democracy based on geographic constituencies, parties shape their policy proposals to appeal to marginal voters (those neither committed to the party nor to one of its competitors) in marginal ridings.

(v) In a world characterized by imperfect knowledge (uncertainty) and costly information lobbying activities take on considerable importance. In particular, interest groups (those with absolutely large stakes of wealth or income susceptible to alteration by government policy and able to overcome the transaction and information costs of organization) provide the resources for political parties to acquire information and to finance efforts to persuade voters to support them on election day. (Note that in a world of perfect knowledge lobbyists would not exist because no citizen would be capable of influencing the vote of another as each has full knowledge of his own preferences and of the consequences for him of all policies in place or being proposed by all parties.)

(vi) Imperfect knowledge and costly information makes the governing party "susceptible to bribery." Resources are needed to acquire knowledge of voters preferences (over and above that which can be obtained by party representatives) and to persuade voters that the party's policies are good for them. "One way to get such resources is to sell policy favors to those who can pay for them [large stakeholders], either by campaign contributions, favorable editorial policies, or direct influence over other voters ... They merely exchange their political help for policy favors, a transaction eminently reasonable for both themselves and the government" (Downs, 1957, p. 141).

Therefore, the resulting inequality of political influence is a necessary result of imperfect knowledge (uncertainty), costly information and the prior unequal distribution of income and wealth. "Lobbying in a democracy is a highly rational response to the lack of perfect information, as is government submission to the demands of lobbyists."

(vii) Public policies (government actions) are formulated to generate one or both of the following types of political support: votes; and financial support with which to acquire information to persuade voters. As Trebilcock et al. (1982) emphasize, governments seek to sell their policies by means of subsidized selective, persuasive information. In general, governments will adopt those policies which will be most effective in getting the support of marginal or uncommitted voters.

(viii) The "name of the game" for the party in power is to woo uncommitted voters while not alienating committed supporters. Two general techniques to achieve this objective are first to impose costs on committed opponents (preferably, but not necessarily in a disguised fashion) while conferring benefits on the uncommitted voters. This is constrained by the effectiveness of the counter-promises of other parties. Second, the party can try to spread the costs of its policies that benefit uncommitted voters so widely that no individual finds it worthwhile to invest in political action to avoid these costs.

Following Trebilcock et al. (1982) we can say that

- It is in the interests of the party in power to choose policies that confine benefits to marginal voters and confine costs to infra-marginal voters.
- Policies should be chosen so as to provide benefits in a concentrated form in order that their visibility is enhanced and to impose costs in dispersed form so that their visibility is lessened. However, as benefits become more clearly visible, the smaller the number of voters on which a party can realize a political return.

- The perceived benefits of a policy can be made to appear greater than the real benefits through the strategic use of subsidized, selective information, often of a symbolic nature. A similar approach may be taken when the dispersion of costs does not fully obscure their existence from marginal voters who bear them.
- The more widely dispersed the group of marginal voters sought to be benefited by a chosen policy the less real the benefits need be. Widely dispersed interest groups and voters who possess inferior information processing capabilities are particularly vulnerable to the substitution of symbolism for substance in the choice of policies.

(ix) The core of the positive theory of government action lies in the idea that particular policies have no meaning to political parties except as vehicles to obtain political support. Parties compete to identify and shape policies that appeal to voters in order to gain or retain office.

4.0 WHAT IS EXCHANGED IN POLITICAL MARKETS?

The public choice approach to a positive theory of government intervention argues that, in part, policies are "sold" by political parties in exchange for financial and other resources. Breton (1976), as we have seen, comes closest to Downs in his theory of regulation. Breton argues that political parties exchange promises of favorable regulation (or other forms of intervention) in exchange for campaign contributions. It is noteworthy that Downs' model does not rule out what we usually think of as bribes. His directness and simplicity is admirable, but probably an affront to the tender minded. In the real world there are some legal and institutional constraints on straightforward exchange of money for political favours.[13] In addition, some indirection and euphemisms are required in light of the considerable idealism that many voters have about public life.

Regarding what is actually exchanged in political markets in the Canadian context, several facts are salient. First, overt the exchange of policy favours for campaign contributions is widely condemned as undesirable or even immoral behavior.[14] Second, an elected official who accepts money for actions by the government beneficial to the person paying the money may be violating the Criminal Code. Boyer (1983, p. 52) summarizes the Canadian law on political contributions by saying that they "should be invested with a spirit of altruism. When they originate with a corrupt interest the Code is offended."[15]

Third, contributions to political parties and candidates by individual donors, by agreement between the two major parties at the federal level, don't exceed $50,000 (Stevenson, 1982, p. 31).[16] Moreover, there are legal limits on campaign spending, advertising activity and there is a requirement to disclose the names of persons contributing more than $100 in cash or kind to any party or candidate. Moreover, there are a number of direct and indirect subsidies for political expenditures. See Stanbury (in press, Ch. 10).

All of this indicates that policies are not simply "sold" for campaign contributions. A richer explanation is required. What then is the "medium of exchange" between interest groups and political parties? Here are several possible explanations of what is exchanged in political markets.

First, interest groups may spend their own money directly on campaigns to support candidates, parties and policies (in lieu of that by parties) following an agreement by the party in question to take the actions requested by the interest group.[17]

Second, the interest group can engage in reciprocal cooperation with the party in power in which it agrees to "go along quietly" with the party on policy A (which it would otherwise oppose) in exchange for the party implementing policy B which the group favours.[18] Where trust is well developed the exchange may not be contemporaneous. If a high degree of trust exists, the governing party may agree to implement a policy desired by the interest group on the understanding that the group will "owe the party one" at an unspecified time in the future. Or the converse may occur: the interest group agrees not to protest a particular government action now, receives "a marker" and expects to "cash it in" in the future when it "really needs a favour."

The norm of reciprocity is both strong and universal. Cicero remarked that "there is no duty more indispensable than that of returning a kindness--all men distrust one forgetful of a benefit". Alvin Gouldner (1961, p. 171), after an extensive survey of the sociological and anthropological literature, concluded that "contrary to some cultural rèlativists, it can be hypothesized that a norm of reciprocity is universal". He held it to be "no less universal and important an element of culture than the incest taboo, although, similarly its concrete formulations may vary with time and place". Lobbyists can persuade politicians to act in ways that advance their clients' interests by making extensive use of the norm of reciprocity. See Stanbury (1986, Ch. 8).

Third, possibly the most valuable resource the interest group has to offer the politician/party is information, the exchange of which is subject neither to campaign financing legislation nor to moral strictures. The information most valuable to politicians consists of the following:

- Knowledge of the preferences of voters, particularly uncommitted voters--in the first instance it is critical for the politician/party to be able to identify which voters are strongly infra-marginal (positive and negative) and those that are marginal or uncommitted, i.e., subject to persuasion by the right mix of policies, promises and communications.
- Knowledge of the likely political reactions of voters to both existing policies ("we have run it up the flag pole, is anyone saluting"?) and potential policies that the party might propose.
- Knowledge of the most efficient and effective ways to influence uncommitted voters both by means of substantive policy actions and by means of intentionally persuasive communications.[19]

In accepting information from interest groups, political parties/ politicians appreciate the fact that what they receive is not so much likely to be wrong or untruthful, but rather selective in terms of the facts presented and in terms of the interpretation placed upon those facts. An interest group that lied or engaged in misrepresentation would soon lose its credibility with those it is seeking to influence. Virtually all writers on the politics of interest groups emphasize the critical importance of the credibility of interest group representatives. See Stanbury (1986, Chs. 8, 9).

Politics (and public policy) is a serial game of an almost infinite number of "innings". Success on future rounds depends, in part, on one's behaviour in previous encounters. Moreover, a record of credibility makes it easier for a lobbyist to make his case, as is occasionally necessary, without the assistance of well-documented analysis. Politicans are willing to rely solely on a lobbyist's word--provided that his representations have been credible in the past. In other words, the ability to "stretch a point" at time t, and not suffer recriminations, is a function of one's truthfulness at times t-1, t-2, and so on.

The fourth possible "medium of exchange" between interest groups and political parties relates to the capacity of the former to shape public opinion and to help define the limited number of issues that make up the visible, public policy agenda. While politicians in power use large amount of taxpayers' money on public opinion polling (and those in opposition use smaller amounts of their own funds to do the same thing), broadly-based public opinion is shaped (which is not to say determined) by the actions of a much smaller number of "influentials." The media, especially television and newspapers, are particularly important here -- see Stanbury, 1986, Ch. 11). Hartle (1984, pp. 71-72) puts it this way:

> Voter perceptions...are the reality of public policy decision making. Those perceptions are greatly affected by the news coverage and its interpretation by the mass media and in particular newspapers and television. [But] news reporting...is inherently a highly selective activity.... By giving prominence to a news item that, superficially at least, seems readily understandable, concerning an event that affects the interests of many individuals and is consistent with their prior beliefs (favourable or unfavourable prejudices) the mass media, particularly newspapers, can largely determine the agenda for public policy debate.

Columnist and press critic Ben Bagdikian has written that the syndicated columnist is "the voice of the government subsconscious, viceroy of political kings, imperious controller of public emotion, (and) proctor of public servants." This is undoubtedly an exaggeration, but contains a hard kernel of truth.

But what influences the media? First of all, the media are influenced by the fact they are (with the exception of the CBC) profit seeking enterprises in the business of selling readers/viewers/listeners to advertisers (see Stanbury, in press, Ch. 11). The objective is to obtain the largest potential audience, subject to certain demographic considerations--advertisers are seldom interested in low-income consumers. This means supplying items that are of interest to the audience--particularly those that are seen to affect their interests. Second, individual media enterprises are heavily influenced by their competitors--particularly those that are held to be "leaders" in their field. The term "pack journalism" is not without force. Third, political journalists are influenced by the suppliers of "grist" for their "mill" because of the constraints under which they function (frequent deadlines, desire for novelty, reporters lack of specialized knowledge). Hence, information provided by and the opinions of representatives of "important interests" (large numbers of people, large absolute economic stakes, or "heart tugging" human interest situations) are able to influence what journalists write or say. They will have greater influence if they are easily available, personable and colorful, to the point and "package" their material to suit the constraints that the media operate within.

Therefore, to the extent that interest groups can put issues on the public policy agenda (which has a fairly high degree of turnover), sustain them there or shape such issues, they will have a potent medium of exchange in seeking policy favours from politicans and political parties.

This discussion, therefore, makes it clear that the exchange process in political markets is more subtle and complicated than Downs (1957) suggests. The contribution of the public choice theorists, however, is enormous. By applying the calculus of economic and other incentives to basic ideas of rational, self-interested behaviour they have moved us beyond the naive "public interest" conceptualizations of how political markets work.

5.0 THE SOCIAL CONSEQUENCES OF RENT SEEKING

5.1 The Alleged Inefficiency of Rent Seeking

Rent seeking is ofte condemned by economists, despite the fact that it is the epitome of rational, self-interested behaviour, because it does not produce an increase in aggregate welfare by means of a more efficient allocation of resources. The basis of this criticism may stem from the very definition of rent seeking. For example, Hartle (1984, p. 34) defines rent seeking as follows: "rent seeking can be said to occur when an individual or groups of individuals invest real resources in the expectation of receiving a benefit or reducing a cost where the resources deployed do not add to the output of desired goods and services and where the state is involved directly or indirectly".

Rent seeking, it might be argued, appears to satisfy only a private motive, but does not have -- as does competition in the markets for goods and services

-- a social function. Anderson and Hill (1980, p. 12) remark, "We live in a transfer society".[20] As a result, "society is presently operating far below its full productive potential".

Valuable resources are used up merely to redistribute income by means of government action. Rent seeking is not merely a zero-sum game (A gains $1 and B loses $1), but it is a negative sum game because scarce resources are used up in obtaining government action to redistribute income, i.e., A spends 40 cents on lobbying to get the government to tax B $1 and give that $1 to A. While A's net gain is 60 cents, B has lost $1, so collectively they are 40 cents worse off. It should be noted, however, that the 40 cents spent on lobbying does constitute income from those who supplied the lobbying services. If the supplier(s) of such services would otherwise have been fully employed producing valuable goods and services, society has foregone 40 cents worth of production in order to effect a transfer of $1 from A to B.

Actually, the total social cost of rent seeking may be much greater in that it may result in government policies that impose a deadweight efficiency loss on. For example, Lermer and Stanbury (1985) estimated that supply management marketing boards generate from $3 to $9 of social waste for each $1 that is transfered from the consumers of eggs, milk, broiler chickens, and turkeys to the farmers that produce these commodities. In present value terms, society could pay each farmer the market value of his quota rights, abolish the schemes, and still save over $1 billion in real resources.

Congleton (1980, p. 154), however, notes a paradox in the proposition that rent-seeking behaviour to obtain a monopoly is wasteful. He states, "the dominant source of the waste associated with rent-seeking activity arises because not all of the would-be rent acquirers will be successful in their attempts to acquire monopoly power--that is to say, because of the competitive nature of rent seeking itself." More precisely, in rent-seeking some kinds of competition are preferable to others in terms of efficiency.

Lee and Orr (1980, p. 114) argue that "the graver and more persistent the misallocation caused by various programs in response to rent seeking, the more likely those programs are to survive--the more difficult they will be to repeat or eliminate." The reason for this lies in the fact that the repeal of such policies creates benefits or gains that are diffused, while the losses are concentrated. The less efficient the policy, the greater the likely commitment of resources to obtain benefits from the policy.

At the same time, it is argued that it is common for rent-collecting opportunities to be eroded by the entry of rent sharers. This diffusion of benefits does not eliminate allocative inefficiencies, but it does diminish the political support base of the program (Lee and Orr, 1980, p. 115). In the case of rent controls, for example, in the absence of full control over supply, the controlled rent is initially below the market rent holding quality constant. In general, the effect of controls will be to create incentives to reduce both the quality and quantity of rental housing supplied. The former takes the form of reduced maintenance or the elimination of "free" services. The latter takes the form of conversions to condominiums and other non-controlled uses. Therefore, it is argued that, in time, if supply cannot be controlled including quality, the new equilibrium will once more be efficient and the basis of suppport for controls will disappear.

Tullock (1980b) suggests that with respect to rent-seeking behaviour

- there do not appear to be economies of scale,
- there is no reason to believe that all rent seekers are equally efficient,

- the resources cumulatively devoted to rent-seeking (i.e., stock of capital) cannot simply be transferred from one cause or industry to another,
- it seems that in most rent-seeking cases, the supply curve slants up and to the right from its very beginning, and
- decisions to invest in rent-seeking involve strategic behaviour and the outcomes are hard to predict.

Browning (1980) argues that the likely welfare loss associated with rent seeking will not be as large as Tullock (1980b) suggests for several reasons. First, the potential lobbying activity involves may be a public good, i.e., subject to free riders. This will deter lobbying. Second, the amount of lobbying effort may be less than that which would maximize the net benefit for the group. Third, the cost of lobbying may exceed the expected benefits. Fourth, some lobbying may be desirable to convey information to legislators on voters' preferences. Fourth, some types of redistributional efforts by government don't require lobbying: they are instituted in anticipation of political benefits. Sixth, the traditional excess burdens attributed to government redistribution are likely to dwarf the welfare costs of rent seeking.

5.2 Does Rent Seeking Have a Social Function?

But does rent seeking as we observe it serve no useful social function? Does it not provide a socially acceptable method of resolving perennial conflicts over "who gets what" in society? If the conflicts are endemic--even in Orwell's barnyard some pigs were more equal than others--what are the alternative means by which they may be resolved in an authoritative fashion? After all, political scientists usually describe conflict resolution as the primary task of government itself. In theory, it might be suggested that the adoption of feudalism or a set of social values in which everyone's share is determined by birth or by well defined custom might appear to ameliorate clashes over who gets what.

Could it be that wars or revolutions are common in less presciptive societies when the distribution of income/wealth/consumption are perceived to be unfair. These too waste resources. They may even be more costly as methods of conflict resolution than the ubiquitous rent seeking in democracies. Moreover, following Cheung (1974), there is reason to believe that expenditures on rent seeking will be minimized, given the size of the individually appropriable gains. In other words, efficiency will prevail in this activity as it tends to in most others.

Does this line of argument remind one of Alexander Pope's "whatever is, is right" or of Dr. Pangloss: "everything is for the best in the best of all possible worlds." It seems to say that whatever the constraints, we can be sure that rational, self-interested behaviour will produce an efficient solution--even if it is to the thorny problem of redistributing income. But is this argument analogous to saying that given the existence of market failures such as externalities, public goods, common property resources and natural monopolies, competition among rational, self-interested actors will produce an efficient solution. That is aggregate income will be as high as possible under the circumstances.

It is analogous because the political markets in which rent seeking occurs are replete with "political market failures" such as a high degree of imperfect knowledge (uncertainty); high transactions costs; high and asymmetric information costs; "full line forcing," i.e., a political party offers only a bundle of policies which have to be accepted or rejected in total;[21] relatively few competitors (only two or three parties); infrequent opportunities to alter one's choice; the voter's short attention span; and all of the advantages of incumbency enjoyed by the governing party including the right to choose the election date subject to a legal maximum.

In the face of these impediments to an optimal solution (tentatively thought of as a set of policies that are majoritarian and efficient), what does it mean to say that rent seeking will be conducted with the least use of resources and only where the marginal benefit to the individuals involved exceeds the marginal costs?

Becker (1983) has offered a model of competitive interest group behavior in which groups seek to use government to alter the distribution of income by subsidies and taxes. The outcome depends upon the relative success of organized groups of subsidy recipients and of taxpayers. Regardless of the distributional outcome, interest group competition reduces aggregate income because of the deadweight costs of lobbying to gain a subsidy or to prevent an increase in taxes to pay it. Becker indicates that competition among interest groups will produce an efficient outcome, given these costs. But his result depends on some strong assumptions. First, he assumes that political influence is a zero-sum game. That is, if the subsidy-seeking group increases its influence, the influence of the taxpaying group necessarily declines by the same amount. Second, Becker assumes that as subsidies rise, necessitating increased taxes, the incremental deadweight loss per capita rises more than proportionately to the increase in taxes. Hence the taxpayer group is stimulated to increase its opposition to the activities of the subsidy-seeking group. As Hartle (1984, p. 82) points out, "at the heart of the Becker model is the concept of equilibriating pressure. Individual members of groups will contribute to the 'pressure funds' of the groups up to the point where the additional pressure thus purchased just yields an equal additional advantage through lower taxes or greater subsidies."

While an equilibrium is obtained, and while Becker is able to show among other things, that competition among pressure groups favours efficient methods of taxation, he is still forced to admit that "expenditures on the production of pressure are not Pareto optimal because all groups could be made better off by reducing [such] expenditures" (Becker, 1983, p. 387). He admits that competitive lobbying activity among pressure groups creates wasteful expenditures in an effort to alter the distribution of income.

One of Becker's (1983, p. 384) apparently more powerful results is that "political policies that raise efficiency are more likely to be adopted than policies that lower efficiency". However, it appears that this result is based on implicit assumptions that are unlikely to hold in the real world. Implicitly, Becker must be assuming that the individual benefits of an efficiency-promoting policy (e.g., one that corrects a true market failure) exceeds the costs (taxes) of that policy to the individuals who finance it. This is unlikely because the critical characteristic of policies that improve allocative efficiency is that their benefits tend to be widely diffused. Hence it is unlikely, given the costs of organizing the efficiency beneficiaries, that there will be a net benefit to the members of this group. Second, Becker may be implicitly assuming that the costs of organizing groups that seek the benefits of efficiency-promoting policies are no more than the costs of organizing a group to resist higher taxes. In reality, given the diffusion of efficiency benefits, this seems unlikely to be the case. Moreover, Becker apparently ignores the observed asymmetry between gains and losses. In other words, the perceived loss of a benefit (gain) foregone is, for most people, far less than the perceived utility of a loss from one's present position (Knetsch et al., 1984).

Hartle (1984, p. 86) also notes that one of Becker's contentions, namely that competition among political parties results in the choice of policy instruments (taxes, subsidies, regulation etc.) that are most economically efficient, "would seem to presuppose a strange political system". It would assume, Hartle suggests, that "each election is fought about only one policy issue as though it were a different jurisdiction (government) for each issue. In point of fact, parties are bundles of 'characteristics' and [there are] a multitude of issues."

Becker's work, and that of Hettich and Winer (1984), Cheung (1974) and Dales (1983), for example, offer new insights into the phenomenon of rent seeking. But we are a long way from concluding that the current level of such activity, even given the constraints of the real world, is optimal. There may well be other, better ways to channel the endless search of individuals to improve their position through action in political markets.

Notes to Chapter 2

1. Under conditions of imperfect knowledge and costly information, not to mention the proclivities of political parties to propose hundreds of policies (see Simpson, 1980), "many a voter finds party ideologies useful because they remove the necessity of relating every issue to his own conception of 'the good society.' Ideologies help him to focus attention on the differences between parties ..." (Downs, 1957, p. 141). Ideology is used as a form of shorthand by parties to summarize their complex bundle of policies and thereby make it easier for voters to make choices. Downs (1957, p. 142) points out that "once a party has placed its ideology 'on the market,' it cannot suddenly abandon or radically alter that ideology without convincing voters that it is unreliable." Hence parties ideological stances must be differentiable but also "fuzzy" to easy permit adaptation to new concerns of voters.

2. Journalist and author Walter Stewart (1981) describes politicians as "weird birds, patient enough to weave together compromises, open enough to absorb a lot of good and bad advice, conscientious enough to perform the hundreds of chores that make up the bulk of their work, smart enough to sound agreeable to a lot of disagreeable onlookers and honest enough to withstand the kind of scrutiny few businessmen and fewer journalists could survive."

3. See Sandra Gwyn, "Yesterday's princes -- the bleak future for unemployed cabinet ministers", Saturday Night, Vol. 95(1), January/February 1980, pp. 18-23.

4. See, for example, Gillies (1984), Thomas (1983) and McGrath (1985).

5. Nozick (1974, pp. 274-75) applied the marginal voter calculus to explaining (i) why many government programs most greatly benefit the middle class, and (ii) the least well-off 51% ratio of the voters vote for redistributive policies that would greatly improve their position at the expense of the other 49%:

> The fact will seem puzzling until one notices that the bottom 51 percent is not the only possible (continuous) voting majority; there is also, for example, the top 51 percent. Which of these two majorities will form depends on how the middle 2 percent votes. It will be in the interests of the top 49 percent to support and devise programs to gain the middle 2 percent as allies. It is cheaper for the top 49 percent to buy the support of the middle 2 percent than to be (partially) expropriated by the bottom 51 percent. The bottom 49 percent cannot offer more than the top 49 percent can to the middle 2 percent in order to gain them as allies. For what the bottom 49 percent offers the middle 2 percent will come (after the policies are instituted) from the top 49 percent; and in addition the bottom 49 percent also will take something for themselves from the top 49 percent. The top 49 percent always can save by offering the middle 2 percent slightly more than the bottom group would, for that way they avoid also having to pay to the remainder of the possible coalition of the bottom 51 percent, namely the bottom 49 percent. The top group will be able always to buy the support of the swing middle 2 percent to combat measures which would more seriously violate its rights.

Nozick (1974, p. 275) continues,

> Of course, speaking of the middle 2 percent is much too precise; people do not know precisely in what percentile they fall, and policies are not easily geared to target upon 2 percent somewhere in the middle. One therefore would expect that a middle group considerably larger than 2 percent will be a beneficiary of a voting coalition from the top.

6. Politics, however, is a dynamic process, a fact reflected in the aphorism that "politics makes strange bedfellows." Therefore, governing parties often appear to, inefficiently, provide substantial rewards for their strongest supporters (e.g., Quebec in the case of the federal Liberal Party prior to their defeat in the 1984 election) and also sprinkling some largesse on what appears to be stony ground (e.g., western Canada). They do so because unanticipated exogenous forces may cause a shift in political fortunes and a party does not want to be seen as crassly practising the dictums of marginal voter politics. To extend Yogi Berra's dictum, "it ain't over 'till its over, and in politics its never over." Yesterday's opposition supporters may be tomorrow's uncommitted voters and therefore potential supporters. Gratuitous political insults (the failure to provide any "goodies" for inframarginal voters) make it harder for such changes to occur.

7. We note that there are both practical and legislative constraints on the "targeting" of governing instruments. For example, family allowances cannot be paid only to mothers who are uncommitted voters or to those who live in "swing" ridings. A national highway system means the road must be built through the ridings of both types of inframarginal supporters. There can be, on the other hand, considerable discretion in the location of defence establishments. For example, the pension administration unit of The Department of Veteran's Affairs was moved from Ottawa to Prince Edward Island. The new F-18 fighter planes were placed at Cold Lake Alberta in July 1984, whereas their predecessors were based at Comox on Vancouver Island.

8. In practical terms, a political insider whose identity cannot be revealed defines an issue as "any problem or interest which has the potential to influence voting behaviour in an upcoming election". A problem or item of interest is not an effective issue (i.e., a vote getter) unless a significant proportion of voters, with a reasonable level of intensity, feel that (i) the problem is subject to improvement by the level of government concerned; and (ii) voters believe that one party (leader) can handle the problem better or faster than other parties (leaders).

9. Another consequence of imperfect knowledge and costly information is the transformation of democratic into representative government. Representatives (usually based on geographic constituencies) are needed to ascertain the preferences of voters and to persuade voters to re-elect the party in power. Members (and candidates) become agents for parties in trying to sell the party's bundle of policies.

10. In adopting the policy proposed (and "purchased") by the interest group a political party has a practical problem in the real world. Popular sentiment requires that where such policies are made public (and not all policies important to interest groups are), that they be presented in terms of "the public interest." Stanbury and Lermer (1983, p. 381) state "obviously, naked self interest must be clothed with more socially acceptable rationalizations. For example, farmers asking for a supply management scheme are not merely trying to raise their incomes, they are 'preserving the family farm,' maintaining the rural way of life, and asking only to 'recover their costs.'"

11. Perhaps the most naked example of this type of exchange is the $400,000 campaign contribution of dairy farmers to Richard Nixon made shortly after dairy support prices were raised by $300 million per year. The Watergate prosecutor found a letter from a dairy lobby saying a campaign contribution of $2 million could be had if import quotas on certain dairy products were imposed. Two weeks later Nixon did so and also raised the support price for milk. See Navarro (1984, pp. 118-119). For examples of political corruption in Canada, see Chapter 10 below.

12. Rationality is taken to mean that people consistently seek to maximize a well ordered set of preferences and that they alter their behaviour in response to changes in incentives in a way consistent with such maximization. Bounded rationality is based on the premise that individuals can neither hold all the information necessary to analyze complex decisions and that they lack the mental capacity to process such information within the time allowed for most decisions. Therefore, argues Simon (1955), people engage in approximate optimization and they "satisfice," i.e., they accept the first conveniently available solution that achieves their aspiration level.

13. Recently the City of Vancouver agreed to waive a major violation of its zoning laws in exchange for a payment to the City of $500,000 by a property developer. The latter had built two more luxury townhouses in a development than had been approved in his building permit. The payment, based on the estimated profit on the two units of $400,000 plus a punitive exaction, was in lieu of an order to tear down the two units. Despite the fact that (i) the money went to the City, not to any politician or party, (ii) the selling of the "indulgence" was an efficient solution, and (iii) the money was paid after the event in lieu of an apparently less costly alternative, there was an intense controversy in the city. The deal made the headlines. See "City buyoffs called unlikely", Vancouver Sun, August 20, 1984, p. A9.

14. Section 110 of the Criminal Code creates several indicatable offences regarding frauds upon the government. Section 110(1)(a) makes it an offence to directly or indirectly give or offer, or agree to give or offer, to an official, "a loan, reward, advantage or benefit of any kind as consideration for cooperation, assistance, exercise of influence with or any act or mission" in connection with the transaction of business with the government or any matter of business relating to the government whether or not the official is able to reco-operate etc. Boyer (1983, p. 52) points out that the word "official" has been interpreted in the case law to include MPs and cabinet ministers. The most notorious case of bribery of a minister occured in B.C. regarding forest licences--see R. v. Sommers (No. 3) (1958) 26 W.W.R. 244; (No. 4) (1958) 26 W.W.R. 246.

15. Section 110(1)(e) of the Criminal Code is a similar section in respect to "a minister of the government or an official." Section 110(2) makes it an offence for government contractors or would-be contractors to make political contributions in order to obtain or retain a contract with the government. This applies to both federal and provincial parties and elections.

    Section 108 of the Criminal Code provides that an MP or member of a provincial legislature who corruptly accepts or obtains money or valuable consideration for himself or another person in respect of anything done or omitted, or to be done or omitted by him, in his official capacity, is guilty of an indictable offence and liable for imprisonment for up to 14 years (Boyer, 1983, p. 52).

16. After the federal election of September 4, 1984 it was revealed that the largest single contribution to any political party in 1983 was for over $453,000. It was made by a widow to the NDP. See Robert Sheppard, "Unsung heroine of barren lands", Globe and Mail, September 4, 1984, p. 7 In 1984 the Progressive Conservatives received contributions of $150,000 from Candor Investments Ltd. and $100,250 from Denison Mines and $100,000 from Roman Corp. -- the last two companies are controlled by Stephen B. Roman. See Stanbury (1986, Ch. 10).

17. We note, however, that on October 25, 1983 Parliament unanimously enacted, in 40 minutes, legislation (Bill C-169) to very sharply restrict political advertising by third parties during federal election campaigns. The National Citizens' Coalition has obtained a trial court decision ruling that these amendments to the Elections Act violates the Canadian Charter of Rights and Freedoms in the new constitutions. See Globe and Mail, June 27, 1984, pp. 1-2; Maclean's, July 9, 1984, p. 40; and Financial Post, July 21, 1984, p. 28. The federal government has announced it will not appeal the case. More generally, see Aubrey Golden, "Pandora's box opened on election spending", Globe and Mail, July 17, 1984, p. 7. See three large ads by the National Citizens Coalition, Globe and Mail, July 19, 1984, p. 9; August 16, 1984, p. 9; August 30, 1984, p. 9. More generally, see Stanbury (in press, Ch. 10).

18. It should be obvious that there is a potential for deception, bluffing and other forms of strategic behaviour. For example, a group could launch a vigorous campaign against an existing policy, toward which it really was indifferent to create a "bargaining chip" to be exchanged for an action on a policy it really cares about.

19. Advertising agencies frequently provide free services at a subsidized rate to parties during election campaigns in the hope of receiving lucrative contracts for advertising by goverment departments and agencies. See Whittaker (1977, Ch. 5) and Stanbury et al. (1983, pp. 148-151).

20. If a mechanism is established by which government can alter rights holdings because those holdings are illegitmate, "what prevents any and every individual and group who desires someone else's rights from approaching the government with their particular standard of legitimacy and aruing for such a transfer?" (Anderson and Hill, 1980, p. 9.)

To John Taylor writing over 170 years ago, the concept of rent seeking by means of pressure groups was clear. They had one purpose alone: "a transfer of private or public property, or both, from individuals or nations, to orders, corporations, or to other individuals" (cited in Anderson and Hill, 1980, p. 24).

21. See the discussion in Hartle (1979, pp 32-33).

Chapter 3

POSITIVE THEORIES OF GOVERNMENT ACTION TO REDISTRIBUTE INCOME

1.0 INTRODUCTION

In this chapter we continue the discussion of positive theories of government action. In contrast to Chapter 2, where we examined the public choice approach broadly, in this chapter we review a number of more specialized theories that purport to explain why a government acts to influence the behaviour of actors in the economy. A number of the theories are clearly within the public choice approach. All of these theories, however, seek to explain government actions to alter the distribution of income.

2.0 INTERVENTION TO REDISTRIBUTE INCOME FROM CONSUMERS TO PRODUCERS

2.1 The Economic Theory of Regulation

One of the most widely cited theories of government intervention to alter the distribution of income was formulated by George Stigler (1971) to explain the existence of many types of direct regulation where government controls some combination of price, entry or rate of return. What Stigler called the economic theory of regulation sees government regulation as simply a means of transfering wealth from a politically less influential coalition to a politically more influential coalition. The theory is based on the three propositions: (i) that people seek to advance their own interests rationally; (ii) that the state may be used to achieve economic gains for some groups at the expense of others; and (iii) that the costs of influencing the political process to achieve beneficial regulation are less than the benefits. In short, to quote Posner (1974, p. 343), "economic regulation serves the private interests of politically effective groups." Put another way, regulation can be viewed as a product whose allocation is governed by the laws of supply and demand in political markets.[1]

Much of the theory is not innovative for, according to Harold Lasswell, politics is concerned with who gets what. Dahl's formulation is somewhat more elegant, but says the same thing, i.e., politics is concerned with the authoritative allocation and distribution of resources in society. What is original about the economic theory of regulation as developed by Stigler (1971), and Peltzman *et al.* (1976) is what it has to say about *how* who gets what. Basically these authors draw an analogy between traditional economic markets and political markets, with constituents on the demand side and their political representatives on the supply side. They assert that the political market will distribute more wealth to those whose effect on demand is highest.[2]

Posner (1974, p. 344) argues that the theory of cartels can be used to locate the demand and supply curves. For example, on the cost side, there are the costs of organizing and arriving at an agreement about the joint price and quantities. Then there is the cost of enforcement of the agreement against non-participants or defectors. The latter depends upon the number of participants (potential beneficiaries) and the homogeneity of interests.

Posner (1974, p. 345), notes that regulation occurs in industries where cartels are not formed. The demand for regulation will occur where private cartels are infeasible or costly to organize/enforce, e.g., low concentration. Second, regulation requires intervention in the political process, i.e., another step beyond purely private action. This requires: (i) asymmetry in positions of industry members (to overcome the free-rider problem), and (ii) "the determinants of political influence must be worked into the supply side of the market in regulation" (Posner, 1974, p. 346). In summary, Posner (1974, p.

347) states "one characteristic that discourages cartelization--a large number of parties whose cooperation is necessary to create and maintain the cartel--encourages regulation." However, it should be pointed out that even when numbers are small (e.g., high industry concentration) and interests are symmetric, regulation may be sought if cartelization is illegal and anti-cartel laws are enforced. In this case, regulation is a legal way to achieve the same ends. Posner (1974, p. 348) argues that "the economic theory [of regulation] is still so spongy that virtually any observations can be reconciled with it."[3]

In summary, what Stigler and Peltzman propose is, on reflection, essentially a theory of optimal political coalitions. Implicit is the notion that, if regulation is selected as the means of effecting a given transfer of wealth, it is because regulation is the least costly means (to the suppliers) of bringing it about. Peltzman's (1976) principal contribution to this argument lies in his assertion that, "even if groups organize according to economic interest (producers vs. consumers), political entrepreneurship will produce a coalition which admits members of the losing group into the charmed circle." That is, using the choice-theoretic, utility maximizing assumptions of micro-economics, Peltzman identifies regulatory equilibrium in which the cost and benefits to the different interest groups affected and the interests of elected officials are equated at the margin.

What about the empirical evidence?[4] Jordan (1972, pp. 152-153) suggests that there are three diverse hypotheses about the effects (as opposed to the objects) of direct regulation: the consumer protection hypothesis, the no-effect and the producer protection hypothesis. Under the latter, the effect of regulation is "to increase or sustain the economic power of an industry" (Jordan, 1972, p. 153). He concludes that the other two hypotheses are not supported by most of the existing evidence.

On the other hand, once recognition is given to the effects of prior (unregulated) market structure, most of the evidence is consistent with the producer protection hypothesis (Jordan, 1972, p. 154). Thus, in the case of natural monopolies, for example, regulation would be found to be ineffective because such firms already have considerable market power. Jordan (1972, p. 175) also points out that studies of the origins of many regulatory agencies are also consistent with the producer protection hypothesis. That is, the firms that would become subject to regulation supported the introduction (imposition) of regulation,e.g., the ICC and the railroads; the CAB and the airlines; the ICC and the truckers. In particular, Jordan (1972, p. 176) notes that "where there is little or no monopoly power in the prior market structure, regulation should have an important impact by helping formerly independent producers form a cartel for their benefit and protection".

2.2 Clientele Capture/Life Cycle Hypothesis

The "capture" theory of regulation "holds that regulation is supplied in response to the demands of interest groups struggling among themselves to maximize the incomes of their members" (Posner, 1974, pp. 355-336). In this sense it is a variant of the economic theory of regulation. While the discussion below refers to only one governing instrument, regulation, the theory can be easily extended to other instruments, for example, subsidy or transfer programs.

While Posner distinguishes among several versions of the capture theory, the most interesting amounts to a dynamic version of Stigler's approach. While regulation may originally be instituted to protect the public interest, over time, those firms or individuals who are subject to the regulatory regime effectively gain control of it and use it for their own purposes. In other words, it no longer protects its putative beneficiaries when it is first established, it benefits those whose behaviour it was designed to control.

Sabatier (1975, p. 303) provides a convenient summary of Bernstein's (1955) life-cycle hypothesis concerning regulatory agencies which incorporates the concept of capture.

> According to Bernstein, the gestation of most agencies is marked by a fierce struggle between the diffuse majority favoring and the powerful minorities opposing regulation. The result is a statute which rarely provides either clear policy directives or adequate enforcement powers to the agency. Moreover, the "public" (or consumer) groups demand-ing reform are often exhausted by the legislative struggle, satisfied by the "symbolic" reward of the passage of legislation, and willing to leave the "technical details" of implementation to experts. While the supporters soon lose interest, the targets of regulation usually have a common, salient interest which facilitates concerted, sustained action to forestall aggressive regulation. The agency is thus left to confront its power, well-organized clientele with few political resources. Put on the defensive by the spectre of judicial review of "arbitary and capricious" actions, the agency generally adopts a cautious, case-by-case approach with elaborate procedural safeguards. After time there generally develops a "subtle relationship in which the mores, attitudes, and thinking of those regulated come to prevail in the approach and thinking of many commissioners," until gradually they perceive their "primary mission as the maintenance of the status quo in the regulatedindustry and their own position as recognized protector of the industry." When the policy preferences of regulated and regulator attain such coincidence, the agency is said to be "captured" by its clientele.

Posner (1974) identifies a number of problems with the capture theory even in the form of the life-cycle hypothesis. It is not distinguishable even from the reformulations of the "public interest" theory of regulation, i.e., normative theories based on overcoming market failures or widely-shared desires to alter the distribution of income or wealth.[5] In fact it is not a theory, merely an hypothesis. (A better metaphor would be bargaining between the regulated firms and the regulators, not conquest.) More importantly, Posner asks, if the regulated can capture the agency, why couldn't they prevent the imposition of regulation in the first place? Conversely, why couldn't the customers (the putative beneficiaries) capture the agency?[6]

The life-cycle hypothesis is contradicted by certain evidence (see, for example, Meir and Plumlee, 1978). For example, not every agency is originally created to protect the public interest. The "theory" has no predictive capacity when a single agency regulates separate industries with conflicting interests, e.g., the Interstate Commerce Commission or the CTC in Canada. It ignores the "taxation by regulation" phenomena--see section 3 below. We can observe regulatory agencies promoting the interests of certain customer groups, but not others.

In addition to Posner's critique, one can find other comments on the clientele capture/life-cycle hypothesis. Capture may have been intended all along by legislators. The agency was expected to be coordinator/manager and/or expected to give policy advice to executive department(s). Put slightly differently, the economic theory of regulation maintains that regulation was avidly sought by those who would be subject to it. If this is correct, then Hartle's (1979) observation, "you can't capture what you already own", is important.

The appearance of regulatory capture, or its fact, may occur as a result of the vague, general (or contradictatory) mandates given the regulatory agencies to regulate "in the public interest, convenience and necessity"[7] makes it natural for regulators--in the absence of a clear mandate to interfere with the management of the firms they regulate and without political resources--to seek an accommodation with their clientele. Regulation/management by an executive department (rather than an "independent regulatory agency") is just as prone to capture as such an agency. For example, the Department of Agriculture or the Department of Labour often appear to serve the interests of farmers and the labour unions respectively.

The time-span of the predicted cycle of decay is not specified (not formally testable) in the capture hypothesis although Galbraith suggests it's about 10-15 years. The empirical basis for the proposition is limited--for lack of sophisticated research, but see Meir and Plumlee (1978) and Schwert (1977). In any event, how do we measure agency outputs and thereby observe changes in them as clientele capture takes place? Decline of political support for the agency and its objectives is assumed to occur shortly after it is initiated. Sabatier asks if this must be so. Can it not take "active measures to reinvigorate and/or create a constituency supportive of agresssive regulation" (Sabatier, 1975, p. 305).

It may be that aggressive regulation as desired by the agency's supporters either doesn't work (doesn't produce the desired outcomes) or is impossible to implement. The best an agency can do is offer "symbolic reassurance" by going through the motions and try not to "gum up the works!" This may account for the finding by Stigler and Friedland (1962), for example, that direct regulation doesn't control prices/rates of return in electric utilities. (But we should consider Jordan's (1972) explanation of prior market structure as the determinant of why performance is cartel-like instead of approximating competition.)

It might be argued that regulation, like most things, is subject to diminishing returns. Therefore, the great bulk of the (net) benefits of a new regulatory initiative are probably achieved early in its life when it has political support and a clear perception of what it is trying to do. It may be quite socially rational for its advocates to gradually withdraw support as more costly improvements are faced. In most cases, there is "no going back to square one" so the bulk of the initial benefits remain even if clientele capture ensures.

3.0 REGULATION TO REDISTRIBUTE INCOME AMONG CUSTOMER GROUPS

Government intervention in the form of regulation, in addition to having an impact on the allocation of resources, may also be used to confer benefits on politically effective customer groups at the expense of other customer groups. Posner (1974, p. 351) argues that "much regulation ... may be the product of coalitions between the regulated industry and [certain] customer groups, the former obtaining some monopoly profits from regulation, the latter obtaining lower prices (or better service) than they would in an unregulated market--all at the expense of unorganized, mostly, consumer groups."

Posner (1971, p. 22) points out that neither the public interest nor the economic theory of regulation, nor the capture theory explain an important phenomenon in public utility and common carrier industries: "the deliberate and continued provision of many services at lower rates and in larger quantities than would be offered in an unregulated competitive market or, _a fortiori_, an unregulated monopolistic one." To explain this it is necessary to admit "that one of the functions of regulation is to perform distributive and allocative chores usually associated with the taxing or financial branch of government" (Posner, 1971, p. 23). He calls this theory, "taxation by regulation".

It is the power of the regulatory agency to control entry that makes price discrimination and/or cross-subsidization possible. In effect, the regulators impose a form of _excise tax_, with the burden falling on certain customers and the proceeds earmarked for specific purposes (the provision of certain non-remunerative services). See Hilton (1972). Taxation by regulation is said to occur in the regulation of airlines, railroads, telecommunications, auto insurance, natural gas, urban transit, electric utilities, water utilities. In fact, Posner (1971, p. 24) states "examples of internal or cross-subsidization ... lie everywhere at hand in the regulated industries."

Perhaps the best-documented example in Canada is that of Bell Canada which has estimated that it cost $1.89 to generate $1 of revenue from non-competitive local services (i.e., the flat rate monthly bill for unlimited calls within a specified area). At the same time, it cost Bell only 31 cents to generate $1 in non-competitive toll services, i.e., long distance calls.[8] The cross-subsidy in 1983 from long distance callers to local callers amounted to over $1.2 billion. It is a bit difficult to identify the "winners" and "losers" since households (and 98% have a telephone) spend, on average, twice as much per month on long distance calls as it does for local service. However, the distribution of long distance calls is highly skewed, i.e., 10% of households account for almost one-half of all toll revenues. See Globerman and Stanbury (1986).

It is necessary to distinguish profit-maximizing price discrimination by a monopolist from cross-subsidization. Only the latter involves prices below marginal cost (providing marginal cost is above average variable cost), i.e., unremunerative services. Note--the case of predatory pricing does not apply as it is temporary. Peak load pricing (including seasonal cases) does not involve cross-subsidization as profits would fall if off peak sales (e.g., low season) were discontinued.

Taxation by regulation accounts for the following phenomena observed in government regulation, says Posner (1971, p. 34):

(i) Control over entry: Posner emphasizes that "the theory that regulation seeks to approximate competition cannot explain the control of entry at all."

(ii) Regulatory review of new construction: This is done to prevent unwarranted investments based on divergences between private and social costs caused by internal subsidization. It also prevents the dissipation of monopoly rents in other than targeted forms of cross-subsidization.

(iii) The duty of the regulated firm to serve and regulatory power over the abandonment of service: Under the common carrier concept regulated firms must serve all customers who demand service--see Burdick (1911). This duty may be used to enhance the regulatory agency's control over the profits of the firm(s) it regulates. The central point is that if regulated firms were not subject to the duty to institute and not to terminate service, they could not be relied upon to implement policies of internal subsidization (Posner, 1971, p. 38).

(iv) The existence of regulation in structurally competitive industries: Internal subsidization does not require the existence of a natural monopoly. As long as entry is controlled and the regulator looks at the structure of rates this can be the result.

(v) The fact that most directly regulated industries sell services (not goods): The impossibility of storage prevents the transfer to the unintended user hence the possibilities for arbitrage.

(vi) Regulated industries provide "infrastructure" services: The "classically" regulated industries are transportation, power (electricity and gas), and communications. Regulation of these industries may be used to promote (or direct) economic growth by internal subsidization.

4.0 INTERVENTION TO REDUCE THE SPEED OF ECONOMIC AND SOCIAL CHANGE

Owen and Braeutigam (1978, p. 35) have formulated a theory of regulation based on the notion that the public is generally risk averse and that the marketplace, "at least when it responds to abrupt changes is regarded as an unfair allocation mechanism." Market forces pose a threat to investment in physical and human capital to all those without instantaneous adaptive capabilities. For Owen and Braeutigam (1978, p. 26), regulation is a micro-market stabilization mechanism, i.e., "Regulation exists in order to slow down the rate at which the free market redistributes income, thus reducing the market risks by voters."

Owen and Brautegam's theory is part of a larger phenomenon. As Thurow (1981, p. 12) observes, "To protect our own income we will fight to stop economic change from occurring or fight to prevent society from imposing the public policies that hurt us."[9] Behind this phenomenon lies the almost universal demand for economic security.

> Economic security is to modern man what a castle and a moat were to medieval man. One would have expected that the desire for economic security would fall as the danger of real starvation and exposure faded into the past. But this hasn't happened. Instead, the desire for economic security is probably the major economic demand confronting the political marketplace. Everyone wants economic security, and government is seen as the prime vehicle for guaranteeing it. The drive for economic security dominates our actions and may end up dominating our economy (Thurow, 1981, p. 19).

What is the basis of the almost universal demand for economic security? Thurow (1981, p. 20) argues that it is attributable to the fact that "economic destruction in industrial societies is caused by identifiable human actions that can be controlled." In contrast, in agricultural societies economic adversity was largely attributable to exogenous natural forces, e.g., the weather. Moreover, Thurow observes that in industrial societies individuals and institutions are highly interdependent, particularly in terms of financial flows. At the same time, "every instance of providing economic security leads to demands for more economic security" (p. 21). As intervention to protect groups from economic change increases, the more protection is needed. In a sense, "economic protectionism" is addictive. Worst of all, because of the economic and more importantly, political consequences large actors cannot be allowed to fail (e.g., Chrysler, New York City, Canadair). Therefore, there is no penalty for failure. "Bottom line" discipline is removed.

Regulation is not the only form of government intervention that is designed to slow down economic hange to ameliorate the "adverse" distributional consequences of economic change. For example, governments in Canada responded with subsidies, import controls, the imposition of "voluntary" import quotas and tax expenditures and other measures to assist the domestic automobile industry when its economic position declined due to a severe recession and the growth in Japanese imports.

Vinning (1978) shows that when private cartels in agricultural products (e.g., apples and soft fruits) broke down during the 1920s in British Columbia--a time of low incomes for producers--the provincial government passed the first compulsory marketing board legislation in 1927 to enforce the cartel's restrictions on output. In this case the producers actively sought government's help (see Baggaley, 1981, pp. 171-72), so that it may be a better example of using the public sector for private objectives not widely shared by the electorate. Baggaley (1981, p. 176) contrasts the situation in B.C. in 1927 to that at the federal level in 1934 when the first Dominion Marketing Act was enacted after B.C.'s legislation was declared unconstitutional.

> The producers who pressed for the British Columbia legislation were localized and relatively homogeneous and as a result more easily organized. For the same reason, it was difficult for the provincial government to reject their demands. The producers who pressed for the federal act were scattered and diverse. They included Prince Edward Island potato farmers, Ontario cheese-makers and Saskatchewan wheat growers. Without the depression they might never have become organized enough to effectively state their case. It is also questionable whether the Bennett government, let alone one led by King, would have given in to their demands under normal circumstances.

The object of the administrative process, it is argued, is "economic justice." Efficiency is sacrificed for security and stability. The predominant public sentiment is that "victims of economic changes should not be placed at the mercy of the market but should instead be protected by a mechanism that provides economic justice" (Owen and Braeutigam, 1978, p. 20). Hence, in demanding "fair" resource allocation the public looks not to the market but to the regulatory agencies which make administrative decisions: The essence of administrative law is that the decision-making process must conform to reasonable standards of fairness, which in practice means that decision-making is judicialized (Owen and Braeutigam, 1978, p. 22).

Regulatory decision making offers a major advantage to those who gain from the perpetuation of the status quo. The beneficiaries may be regulated firms or environmental groups and the victims potential new entrants or regulated enterprises seeking to expand. The value of equitable rights in the status quo cannot be removed without compensation.

> Compensation may take the form of an outright bribe or a subsidy, or it may be the form of a substantial delay imple-menting the change which threatens. Sometimes compensation cannot be paid and the change is effectively vetoed.... Political reality confines the policy makers to the task of finding the least costly compensation mechanism, and the effect of administrative procedure is to severly limit the available options (Owen and Braeutigam, 1978, pp. 29-30).

On the whole matter of compensation, see Quinn and Trebilcock (1981).

5.0 INTERVENTION AS CONFLICT RESOLUTION

One of the essential functions of government as an institution is the resolution of conflicts among contending interests in society. Such conflicts are ubiquitous although their intensity and social significance varies greatly. A good deal of the legal system itself, which includes courts for independent adjudication and public officials to enforce the orders of the courts, can be viewed as an institution designed to resolve private conflicts. Even believers in the minimal state (e.g., Nozick, 1974) recognize the need for the state to define and adjudicate disputes concerning private property rights. Such conflicts concern other rights as well as traditional property rights.

Baldwin (1975, p. 11) argues that regulatory regimes are "created to satisfy the conflicting demands of two opposing parties ... [it is a] vehicle by which 'acceptable' compromises are reached." As a general postulate, Baldwin (1975, p. 5) argues that "a regulatory agency will try to satisfy the government by divising policies which benefit government supporters and thereby improve the chances of the government's re-election. In this sense he is espousing a public choice perspective. In his view, "The regulatory agency should be regarded as one type of agent adopted by the government to effect particular bargains" (Baldwin, 1975, p. 6).

Regulatory agencies are established for the purpose of conflict resolution of two general types. Under the first type, regulation is designed "to arbitrate rancorous disputes between parties whose interests are diametrically opposed," i.e., to deal with constant or zero-sum games such as most business-consumer conflicts. In multi-person conflicts high transaction costs often result, while in bilateral monopoly situations uncertainty of outcome is pervasive. Therefore, "regulatory agencies are created in order to assist or to impose the optimal solution" (Baldwin, 1975,p. 6).

Baldwin (1975, p. 7) argues that "The essential nature of the conflict that gives rise to a regulatory agency is the refusal of one of the parties concerned to accept the optimum that might be established via bargaining, given the existing structure of legal rights." One or both sides, therefore, will inevitably seek the assistance of the state. A regulatory agency to handle such problems is an attempt to solve the problem without alienating either group and logrolling (explicit trade offs among a number of policies) in its usual form cannot be used. Therefore, regulatory agencies not only must arbitrate a compromise, "but also arrange for side-payments to those who suffer negative effects" (Baldwin, 1975, p. 7). From this idea stems the idea of administrative due process, the prevention of "unjust discrimination," the use of cross-subsidization, and control over entry to generate a surplus for redistribution to losers.

Under the second type of conflict resolution regulatory agencies are also created to handle inter-firm conflicts. This "solution" avoids unstable coalitions, imposes a solution backed up by the state--may increase all firms' welfare. Again, an indirect form of logrolling is needed and "regulation enables the government to turn what was a constant or negative sum game into one with a higher pay-off" (Baldwin, 1975, p. 8). This is done by direct subsidies (hard for an agency to obtain, because they require taxation of the general public); and by resource misallocation through the regulatory process. Note, in the long run, the existence of the regulatory agency depends upon support from both sides. They must assume they will, on average, be better off under regulation than in a world of private bargaining.

Because much regulation stems from the state's (and the parties) desire for a method of conflict resolution, the following attributes of regulation become easily explicable: (i) vague legislative mandates (i.e., statement of objectives); "the self-interest of any government to stress the independence of its regulatory agencies" (Baldwin, 1975, p. 9). In this way costs may be hidden and the agency acts as a filter that reduces the ability of protagonists to draw the government into the conflict; (ii) cross-subsidies/price discrimination to pay off important losers and maintain the system (recall, Posner's (1971) discussion of taxation by regulation above); and (iii) control over entry to generate a surplus for "pay offs" to the contending interests.

6.0 OTHER POSITIVE THEORIES OF GOVERNMENT ACTION TO ALTER THE DISTRIBUTION OF INCOME/WEALTH

In this section we discuss, rather briefly, a number of other theories of government intervention which are designed to explain actions to alter the distribution of income/wealth.

6.1 Regulation to Prevent Price Discrimination

Batson (1933) argues that the regulation of public utility industries is attributable to their capacity/practice of price discrimination, not simply monopoly pricing. This capacity stems from the existence of significant overhead costs. There are, however, limitations on ability to use price discrimination; in some industries it is easier to use than in others. Batson suggested that industries in which price distrimination is used should be called multi-pricing industries.

Bentham (1931) made essentially the same point as Batson some two years earlier. He emphasized that the crucial features of industries which have the ability to engage in discriminatory pricing are the existence of large fixed costs and specialized capital; and the fact that some products/services are non-transferable.

Priest (1964a, 1964b) argues governments regulate public utilities because they are natural monopolies. The purposes of regulation is adequate service to all patrons without discrimination at the lowest rates consistent with the interests of both the public and the utilities. See also Wright (1963). Note that this rationale for regulation is exactly the reverse of Posner's concept of taxation by regulation.[10]

6.2 Redistribution as a Form of Insurance

Rodgers (1974, p. 175) conveniently summarizes this approach to income redistribution:

> If individuals are risk averse, smoothing of income fluctuations is beneficial. The desire for income smoothing is not adequately met by private insurance plans because of moral hazard and imperfections in the capital market. Collective provision of the redistribution carried out by government can be interpreted as a mechanism for achieving citizens' desires for greater stability in the flow of income.

As Rogers (1974, pp. 175-76) indicates, it is not clear whether all citizens (members of the "fiscal club") would unanimously decide to institute a compulsory income-insurance program." It depends on the circumstances of choice and the severity of the moral hazard problem.

The essence of insurance is that when a large number of people face a similar risk (e.g., their house catching fire) and they are risk averse, they can improve their welfare by paying a premium into a common pool to establish reserves that will be used to reimburse the small number of individuals who experience loss attributable to some exogenous event. Even when the pool is operated by a private, profit-making firm, there will be redistribution within the group from those who pay premiums and never suffer a loss to those who pay premiums but suffer a loss. This is one situation, however, where it is surely "better to pay than to receive." In any event, entry into the pool to share the risks is voluntary while the focus of our analysis is on positive theories of redistribution based on coercive transfers, taxes, etc., imposed by government.

However, despite the ingenuity of Lloyd's of London, some risks are not insurable in private markets (e.g., due to "moral hazard"; the absolute size of the loss if it occurs, etc.), and therefore individuals may look to government to provide such insurance. In doing so, the individual may also seek to have part of the premium financed by others (such is the case with crop insurance in Canada), and/or he may specifically want to effect a change in the distribution of income via the public insurance scheme.

Another version of the insurance approach to redistribution is based on the following reasoning: If a person of means is risk averse and observes that a variety of uninsurable risks exist that could produce severe downward mobility for him and his family, he may wish to improve the lot of those at the bottom end of the income distribution. This is sort of a variation on the maxim: "be nice to people on the way up because you may meet them on the way down."

Therefore, a risk averse individual who is philosophically opposed to income redistribution in general, might support certain "safety net" welfare programs because he envisages that he may have a streak of bad luck. For example he may suffer a drop in income due to being fired, severe illness/accident, loss of a second income earner in the family, or a natural disaster. Therefore, to maintain a reasonable standard of consumption, it will be necessary to receive the transfers embodied in income support programs. In this context, taxes are premiums which are only very crudely related to the expected loss of income that is reimbursed by the welfare program. Such programs typically suffer from "moral hazard," i.e., losses are not random events exogenous to the insured persons. One has only to think of unemployment insurance plans in any western economy. While payment terms are usually different in the case of involuntary and voluntary unemployment, there is still plenty of room for those with a strong taste for leisure to manipulate the system.

Although the distribution of income as measured by the share enjoyed by each quintile has been remarkably stable over the past three decades,[11] there is much more "turnover" at the level of the individual or family than is commonly believed to be the case. For example, O'Sullivan (1981, p. 61) remarks that "Americans have got hold of a very misguided notion in this vision of a rigid

British class structure." In his view, "in fact, Britain has always been socially a very mobile society ... About two-fifths of people end up in a social class different from that occupied by their parents--a figure very similar to that in the United States and in Australia, and much higher than in continental European countries." O'Sullivan (1981, p. 61) notes that "only a quarter of managers and professionals have fathers from the same background. A greater proportion come from families of manual laborers.

But if there is stability of shares (closely related to class differentiations), upward mobility must be offset by a similar amount of downward mobility. Hence, if one is concerned about falling from a high point on the "greasy pole" (to extend Disreali's metaphor), it makes sense to arrange for at least a moderately soft landing or a safety net. At the extreme, if we are choosing distributive rules behind Rawls' "veil of ignorance", the "maximin" criterion (assuming risk aversion) has a considerable appeal. Hence, Rawls argues that no action should be taken--no matter how greatly it benefits the already well to do unless it also improves the position of the "least advantaged."[12] This proposition has been challenged by, for example, Barry (1973, Ch. 10).

We can identify a third approach to the idea that redistribution is undertaken as a form of insurance. Page (1983, p. 2) argues that, "extreme inequalities of income or wealth undermine the values of order and stability, communal harmony, liberty, self-fulfillment, and equal opportunity." This argument is, in part, a pragmatic one aimed at the interests of the more wealthy. Page's (1983, pp. 203) logic is that inequalities breed resentment; resentment can result ultimately in war or revolution "wholly upsetting the social order" or the alienated may be driven to crime and violence. Therefore, even "conservatives must grant substantial equality in order to avoid alienation, turmoil, or revolt". In other words, the rich in their own self interest, are willing to redistribute part of their income/wealth in order to preserve the rest of it intact. The amount redistributed is an insurance premium against the low probability event of either severe social disruption which would restrict the opportunities for wealth creation or result in a forced redistribution of wealth on a large scale.

6.3 Redistribution as a Public Good

Redistribution may take place because of the recognition that both the transferor and the recipient will be better off as a result of redistribution. In other words, individual A may be made better off if part of his income/wealth is transferred to individuals B, C and D for whom A has a special regard. An improvement in their welfare by raising their incomes results in an improvement in A's utility despite a reduction in his income. In a sense, B, C, and D's low incomes amount to a type of negative externality to A, but it is an externality that will be eliminated when B, C and D's income (level of consumption) reaches some level.

But why could A not improve his welfare (and B, C, D's) by voluntarily making a transfer to B, C and D? Depending on his utility function, A may be made worse off if such transfers are involuntary or coerced by government. Rodgers (1974, pp. 182-83) explains that the private market level of transfers will be suboptimal if the summed marginal rates of substitution of the benefactors will exceed the rate at which the benefactor group's income can be "transformed" into recipient income, which with no transactions costs equals unity. Hence, collectivizing redistribution can make everyone better off.

Breit (1974, p. 11) explains the externalities/free riders model proposed by Hochman and Rodgers (1969) as follows:

> If A gets pleasure from seeing B with a higher money income and if, indeed, B is better off when he receives the money (as evidenced by his not rejecting the transfer), it is Pareto optimal for A to transfer money income to B. At this point Hochman and Rodgers introduce the notion of the 'free rider', which turns the analysis into a case for collectivization because charity is seen to be a public good. That is, A expects that another person, C, whose well-being is also interdependent with B's welfare, will be motivated to transfer money income to B. But C has similar expectations with regard to A and would prefer to 'free ride' off A's generosity... Coercive taxation to finance the transfers is called for in order to achieve Pareto optimality.

In other words, redistribution may be a public good,[13] which in the absence of government action will be undersupplied, i.e., society will not be able to achieve Pareto optimality.

6.4 Envy

Envy is not a pretty emotion, but it may be one driving the efforts of those who wish to use the state to redistribute income. "The envious person, if he cannot (also) posess a thing (talent, and so on), that someone else has, prefers that the other person not have it either" (Nozick, 1974, p. 239).

Max Scheler uses Neitzche's term "ressentiment" to refer to envy, anger and hatred toward those at the top. It is a product of democracy itself because the distribution of these things cannot be adequately resolved. Scheler argues that this emotion will be strongest "where approximately equal rights (political and otherwise) or formal social equality, publicly recognized, go hand in hand with wide factual differences in power, property and education" (cited in Bell, 1972, p. 5).

Interestingly, envy may not arise out of feelings by A that B's extra possessions (natural talents or worldly goods) were not legitimately obtained or not deserved. Envy may be evoked precisely because the superior position is deserved and earned and is thereby even more injurious to A's self-esteem. But as Nozick (1974, p. 243) points out, "self-esteem is based on differentiating characteristics; that's why it's self-esteem". Does this suggest that while envy may be reduced by an egalitarian distribution of income/wealth, its effect may be to sharply limit an important differentiating characteristic important to self-esteem? Nisbet (1974, pp. 115-16) states that "on the evidence, it is not monetary differentiation - much as equalitarians like to dwell upon it -- that galls and occasionally humiliates; it is rather the type of differentiation that comes from unequal intellectual and moral strengths, unequal applications of resolve and aspiration and unequal benefactions of luck."

De Tocqueville noted 150 years ago that the spread of equality in terms of political rights,[14] made men more aware of other aspects that differentiate them from one another. He states "when inequality is the general rule in society, the great inequalities attract no attention. When everything is more or less level, the slightest variation is noticed. Hence the more equal men are, the more insatiable will be their longing for equality". De Tocqueville, ever an acute observer of human nature, argued that "democratic institutions develop to a very high degree the sentiment of envy in the human heart". It is because they "awaken and flatter the passion for equality without ever being able to satisfy it". People are "excited by the chance of equality and irritated by the uncertainty of success: the excitement is followed by weariness and then by bitterness". As a result, they are willing to prevent others from having that which they cannot have.

But which groups are likely to be motivated by envy or bitterness? Irving Kristol (1972) has observed that "the American working class...are far less consumed with egalitarian bitterness or envy than are college professors or affluent journalists". Kristol (1972, p. 41) observes that while intellectuals in the U.S. are "profoundly and sincerely agitated by the existing distribution of income" they are unwilling to offer a specific distribution as their ideal. There is one exception, however; see Thurow (1981, pp. 200-203). Instead, the call is for more equality buttressed by a host of specific policy proposals believed to achieve that objective. The end of the process is not clearly defined. How will we know if we have enough equality?

Liberal interventionists seem to resent the largely exogenous processes (e.g., genetics) that produce unequal talents or abilities. Page (1983, p. 4) asks, "In ethical terms, why should society reward those lucky enough to be born with superior qualities of mind or body?" Surely, it is feelings of envy that prompts the argument that "those less blessed should be compensated."

In Rawls (1971) view, undeserved inequalities which call for redress include natural endowments. In order to treat all persons equally and to provide "genuine equality of opportunity ... society must give more attention to those with fewer native assets and to those born into the less favorable social position. The idea is to redress the bias of contingencies [luck] in the direction of equality". Bell (1972, p. 57) remarks that "with Rawls we have the most comprehensive effort in modern philosophy to justify a socialist ethic. ... Today we have come to the end of classical liberalism. It is not individual satisfaction which is the measure of social good, but redress for the disadvantaged as a prior claim on the social conscience and on social policy."

6.5 Redemptive Egalitarianism and Liberal Guilt

Frankel (1973, p. 55) distinguishes between "corrective" and "redemptive" egalitarianism. In general terms, the former focuses on ensuring equality of opportunity (careers open to talents under fair competition), while the latter seeks to overcome exogenous factors such as genetic endowments, one's parents social position and chance. The latter concept, "in its full philosophic form," says Frankel, can be found in John Rawls' book, A Theory of Justice.[15]

Redemptive egalitarianism "judges our world from a position putatively outside it. The certainty of a moral geometry is sought, not the probabilities of men and women limited by place, time and mortality ... The issues are formulated [in terms of] we are *for* Equality or against it ... Most pertinent of all, the notion of moral responsibility on which this form of egalitarianism rests is one appropriate to an omnipotent God, wondering what went wrong with his creation, and not mortal beings whose perspectives have to be more limited" (Frankel, 1973, p. 59). The "deeper concern [of redemptive egalitarianism] is to restore things to their original Design, to remove the blight of Accident from the world, and make obtuse Matter lie down and be obedient to God's plan."

Schaefer (1979, p. 107) argues that Rawls' difference principle is particularly attractive to those who believe in redemptive egalitarianism. He says, "this movement is not concerned with seeking to make inequalities of wealth, status, and power conform to inequalities of talent and effort. Its goal is rather to combat inequality as such, whether founded on convention or on nature, on industry or on luck". He points out that the strongest advocates of redemptive egalitarianism "come from one of the most privileged classes known to history--American intellectuals and professionals".[16] They are not driven so much by envy, or even altruism, but by the phenomenon of "liberal guilt" according to Schaefer. Schaefer (1979, p. 107) points out, for example, that "the non-minority advocates of racial quotas in education and hiring are those who already enjoy secure and well-paid jobs themselves. They are quite ready to evince their concern for social justice by demanding that qualified white males step aside to increase the opportunities for those defined as minority groups--but never give up their own jobs for this purpose." Where this occurs, we have another example of what might be called the "other people's money"[17] explanation of redistribution.

Liberal guilt is defined as "the feeling on the part of relatively wealthy and well-educated people that they must atone for their superior priveleges by demonstrating their commitment to promote 'social justice' for the less advantaged" (Schaefer, 1979, p. 107). What is the source of the intellectuals discontent on the matter of equality and the distribution of income? Kristol (1972, p. 43) argues that "the professional classes of our modern bureaucratized socieities are engaged in a class struggle with the business community for status and power." Intellectuals, it is argued, have contempt for bourgeois civilization and its focus on the common man. Kristol (1972, p. 44) believes that intellectuals are convinced "that common men could only find true happiness when their lives were subordinated to and governed by uncommon ideals, as conceived and articulated by intellectuals."

Members of the "new class" and their children "have obtained enough of the comforts of bourgeous civilization, and have a secure enough grip upon them to permit themselves the luxuries of reflecting uneasily upon the inadequacies of their civilization" (Kristol, 1972, p. 44). Without a higher purpose they experience anxiety. The demand for greater equality results from the fact--according to Kristol--that bourgeous society is seen as inequitable "because it is based on a deficient conception of the common good."

The demand for "social justice" or "redistributive justice" does not require the policies advocated to actually have the effects of improving the position of the disadvantaged so long as they appear to do so[18] and call for sacrifices on the part of those believed to be unjustly privileged. Liberal guilt arises, in part, because of the success of the liberal democracies in increasing the rights of all and in improving the lot of the average man, and the poor man, in material terms. In liberating society from the hereditary distinctions of class and making one's position depend more on success in the market place, "it made all inequalities of wealth or status open to question" (Schaefer, 1979, p. 108). As de Tocqueville observed more than 150 years ago, "the more equal that conditions become, the more outrageous the remaining inequalities are perceived, by some, to be" (Schaefer, 1979, p. 108).

6.6 Paternalism

Colloquially, we think of paternalism as the situation where A is interested in the well-being of B, C, D, etc., and where A believes that he/she knows "what is best" for them. As a result, A is unlikely merely to wish to transfer income to B, C, D, etc., because the recipients--in A's view at least--are not the best judge of their own welfare. Therefore, A seeks to ensure that the transfers result in the consumption of certain goods or services by the recipients. For example, A is better off when B, C and D are able to obtain a certain level of medical care, or education, or even a certain amount of orange juice. This may account for the use of food stamps in the U.S. rather than cash payments which may be used to buy beer and cigarettes instead of nutritional food for the children of the poor.[19]

Tobin (1970, p. 275) argues that "paternalism ... is a major reason for society's willingness to subsidize the housing rather than the incomes of the poor." He continues, "engineering a less unequal distribution of housing services is, however, particularly difficult because the services are generated by a specific housing stock inherited from the past." Tobin (1970, p. 276) concludes that, for a variety of reasons, there is "little convincing justification in the long run for specific egalitarianism in housing."

But why does A desire to use the state to implement his paternalistic designs? First, if he proceeds unilaterally, that is, if he voluntarily provides B, C or D with the specific goods or services he wants them to have, he may be open to criticism on the grounds of being engaged in paternalistic charity.[20] However, if the same action is conducted by the state its legitimacy is enhanced. (It is not clear that the recipients will interpret the transfer any differently.)

Second, working alone, A's transfers to B, C or D may have little or no impact. A more beneficial impact may be created if the state operates a larger-scale program. This is not to say that public redistribution is always more efficient or effective than private, voluntary redistribution.

Third, strong paternalists may also believe that other well-off persons should also make transfers to "the needy." Therefore, to corral the less paternalistic, people like A seek the state's assistance in effecting their noble work. In this sense, A is able to increase his own utility (feelings of paternalism) with other people's money, although he is also contributing to the cause. In a sense, A's belief that others who are well off ought to make transfers to B, C, D, etc., may be another form of paternalism. In other words, A may believe that the well-to-do persons like himself will be better off by having the state increase their taxes and use the proceeds to provide certain goods and services to B, C, D, etc.

In practice, we know that paternalism may be mixed with self-interest of a narrower sort. One only has to think of the importance of "tied aid" as a fraction of all assistance to underdeveloped countries. Therefore, in our other example, A is not being paternalistic to the extent that B, C or D's failure to obtain an adequate amount of nutritious food will produce in B, C or D negative externalities for A. Perhaps B, C or D incur higher health care costs which, given medicare, may result in higher taxes for A. As Rodgers (1974, pp. 186-87) points out, Lyndon Johnson "put much emphasis on the benefits of a successful 'war on poverty' for the nonpoor." In Johnson's words, "giving new opportunity to those who have little will enrich the lives of all the rest."

Notes to Chapter 3

1. Generally, see Trebilcock et al. (1978), Stanbury and Lermer (1983), and for an earlier analysis, see Gray (1940).

2. For a similar formulation and illustration in a different context, see Kreuger (1974).

3. Generally, see Kolko (1965), MacAvoy (1965) and Lazarus (1974).

4. Although we refer only to Jordan's (1972) important study, many more could be cited. Some of the empirical evidence in Canada is reviewed in Stanbury and Lermer (1983) and Lermer and Stanbury (1985).

5. These are discussed in Stanbury (1985b).

6. The problem lies in the dynamics of information, transaction and organization costs. See Weaver (1978) and Wilson (1974).

7. See, for example, Janisch's (1978) study of the CTC.

8. The comparable figures for B.C. Tel in 1983 were $2.23 and 36 cents (Globerman and Stanbury, 1984).

9. Thurow (1981, pp. 12, 15) remarks, "When there are large economic losses to be allocated, our political process is paralyzed. Each group wants government to use its power to protect it and to force others to do what is in the general interest."

10. It should be obvious that government action to prevent price discrimination can be formulated as a normative theory of intervention on the basis of equity, i.e., persons in similar circumstances should be treated equally.

11. For a long-term perspective with repect to the U.S. see Lindert and Williamson (1976). Regarding Canada, see Osberg (1981), and Pipes and Walker (1984).

12. For a discussion of Rawls (1971) and other normative arguments for income redistribution, see Stanbury (1985b, Ch. 3).

13. For a discussion of the role of public goods as a normative argument for government intervention, see Stanbury (1985b, Ch. 2).

14. Governments also have, in effect, created a host of rights other than fundamental political rights associated with democracy. See Stanbury (1985b, Ch. 4).

15. Frankel (1973, p. 56) encapsulates Rawls position as saying, "whenever there are inequalities in society, these are justifiable if an only if they are to the long-term benefit of the least favored members of society". Kristol (1972, p. 41) argues that Rawls basic proposition "that the social order is just and legitimate only to the degree that it is directed to the redress of inequality is unprecedented and "peremptorily casts a pall of illegitimacy over the entire political history of the human race." Perhaps

to the subliminally discontented that is its appeal. While Rawls analytical methods have been disputed, Kristol notes, "the thesis itself is not considered controversial." Frankel notes that, in theory at least, Rawls "difference principle" is compatible with large inequalities, provided they are "socially efficient." Rawls, however, assures his readers that under his principles of justice "income differences will just naturally diminish" (Frankel, 1973, p. 57).

16. They are probably members of what has been called the "new class". See Bruce-Biggs (1979) and Weaver (1978).

17. It is easy to be generous with other people's money. One can enjoy a double benefit. First, there is the feeling of helping the poor, disadvantaged or other deserving group. Second, the advocates of redistribution may not have to make any sacrifices himself, rather the rich or undeserving will provide the wherewithal for redistribution.
For some observers, the acid test is whether the advocates of redistribution are willing to reduce their own income/wealth in order to achieve greater equality. There is considerable appeal in the proposition that those who advocate a redistributive policy must be willing to have it applied to them personally before it is applied coercively to others. Otherwise, they may be able to "play" with other people's money (OPM) and thereby increase their feelings of righteousness/altruism/justice without diminishing their own material welfare. In one sense, it is easy for millionaires to be socialists, knowing that in a democratic system with a mixed economy, almost all of the redistribution will be within the interquartile range or from the middle 50% to the poorest quartile. They get to redistribute OPM.

18. Contrast the normative argument for rent control in Ontario based on the need to provide affordable housing to low-income families in Stanbury (1985a, Ch. 2) with the empirical evidence on the distribuiton of the benefits of rent control in Stanbury and Vertinsky (1985, Ch. 6).

19. There may be quite another explanation for the use of food stamps in the U.S. Rodgers (1974, pp. 193-94) points out that "the first Food Stamp Plan, begun in the late thirties, and the one begun in the 1964, attempt to augment total domestic food consumption by increasing the consumption of the poor." Hence, farm prices and incomes increased--and this was an explicit objective of the first food stamp plan.

20. While paternalism may be a pejorative term today, it was not always so, as the social history of the Victorian era demonstrates.

Chapter 4

"POLICIES FOR SHOW" OR SYMBOLIC REASSURANCE

1.0 INTRODUCTION

It is possible for a government to alter the perceptions of voters without making a substantive change in the world. Therefore, any analysis of the positive theories of government action should pose the following question: is the purpose of the policy to effect a substantive result, or is it designed only to alter the perceptions of voters, particularly uncommitted voters? Is it, in short, a "policy for show," an act of symbolic reassurance done perhaps with the aid of smoke and mirrors? The purpose of this chapter is to discuss the positive theory that some public policies or government actions are designed largely to alter voters' perceptions so as to gain or maintain political support, even where the decision makers expect the action to have little or no impact on substantive reality.

The difference between policies for substance and policies for show is discussed by Ellul (1967, pp. 129-30). He suggests that "in bygone days, political decisions were calculated in terms of factual consequences as they applied to some situation or government, and in view of their economic or other consequences. Normally, the action was taken to succeed." Now, Ellul argues, political action must be calculated with two objectives in mind: substantive ones; and "the propaganda possibilities offered by such action". Ellul continues, "today, political decisions have become more important because of the effect they may have on opinion than because of their practical and objective significance." He goes so far as to argue that "political actions, whatever their actual effect, will be undertaken primarily as springboards of propaganda... an action [is] calculated, from the beginning as follows: either it succeeds, and the concrete, desired results are obtained, or it fails, and the failure itself will still be an excellent vehicle for the cause..." (Ellul, 1967, p. 131).

It is important to consider the case of "policies for show" because as Doern and Phidd (1983, p. 318) argue with respect to Canada, "there is already some considerable evidence that symbolic politics has already reached epidemic proportion". They note that "symbolic politics does not just embrace an appeal to national symbols such as a flag or the national anthem; it implies an array of ways in which governments express symbolic concern. Such concern is often expressed because to show no concern at all may be both uncaring and inhuman or, somewhat more basely, politically unwise."

2.0 PERCEPTION, REALITY AND POLITICAL FACTS

The basis of "policies for show" or symbolic reassurance lies in the proposition that reality in politics is what voters perceive it to be: "the voters' perceptions of reality are the politician's reality" (Hartle, 1979, p. 88). This idea is widely accepted. For example, Hannah Arendt (1963, p. 94) has said that "in politics, more than anywhere else, we have no possibility of distinguishing between being and appearance. In the realm of human affairs, being and appearance are indeed one and the same."

Jacques Ellul (1967, p. 124) argues that the first principle of political action is that "political man will act in relation to political facts as public opinion knows them." In other words, political facts are those that are incorporated into public opinion -- by whatever means. These means include those employed by a government to shape public opinion. Ellul (1967, p. 101) points out that in the late nineteenth century, for example, "child labor, slums, low salaries, disease, inhuman working conditions -- all these did not, in effect, exist." Ellul (1967, p. 99) states that "nowadays a fact is what has been translated into words or images;[1] what has been worked over to give it a general character very few people can experience directly. What has been transmitted to a very large number of individuals by means of communication and to which has been added a coloring that is not necessarily present in the eyes of those who experience it." He continues, "these qualities combine to form the abstract facts upon which public opinion is based."[2]

Ellul (1967, p. 100) argues that "a fact is a political reality only under two conditions: firstly, if the government or a powerful group decides to take it into account, and secondly, if public opinion considers it a fact, and, at that, a fact of political nature." He continues, "Thus it is no longer the fact itself, but the fact translated for public consumption which is now called a political fact, because the government must govern on the basis of such public opinion." Both the Trudeau and Mulroney governments have been accused of governing by means of public opinion polls.

3.0 WHY POLICIES FOR SHOW?

Why are "policies for show" or symbolic acts used by politicians rather than those that are designed to address the substantive problem? First, "symbolic concern may be expressed because there is genuinely no solution to the problem at hand" (Doern and Phidd, 1983, p. 318). Hence we observe that ringing speeches are made, studies are announced, and that meetings are held to consult on the problem. We observe also that information may be provided to assist individuals or groups to take their own actions, and perhaps a "bureaucratic shuffle" may be undertaken to convince people that "something is being done."

In this context, the absence of a solution may mean that technically the problem cannot be solved or at least it is beyond the government's ability to do so.[3] Or it may mean that the problem is characterized by some form of conflict that is endemic in society and --short of fundamental institutional change--can only be "managed" as an uneasy balancing act.

It is important not to be too cynical about actions that appear to be largely designed to express concern or to provide reassurance. For some people, the problem they want the government to solve may be both real and of great significance.[4] In some cases, the purpose of the studies, consultations and so forth is to delay more substantive action until the problem can be analyzed in more detail. In addition, because the political agenda is crowded and high-level attention is necessarily limited, actions that amount to expressions of concern may be used as a "filter" to test the political significance of the alleged problem. For example, if the problem is important, members of the governing party can assume that the interest group advocating action will persist. Problems and interest groups that "survive" have made a prima facie case that they are important to politicians.

Second, "symbolic actions may...be needed to assuage and placate those with concerns that, for any number of valid of invalid reasons, are simply ranked at the lower end of the government's priority list" (Doern & Phidd, 1983, p. 318). Therefore, what might be thought by the government to be a sustantive response may be perceived by the interest group(s) involved as an inadequate response -- one that is only symbolic.

The fact is that the heart of the political process consists of making trade-offs. Since governments cannot right all wrongs, achieve all worthy goals or expand all existing programs, hard choices have to be made. Not all programs or policies can be of the highest priority -- evidence of which can be obtained by observing what other programs or policies are sacrificed in order to achieve the objectives of those with a higher priority. However, in a dynamic and uncertain world, a politician is seldom able to tell the supporters of a particular program that their interests are unimportant and in the future will be disregarded or treated as of very modest significance.

In an uncertain and dynamic world politicans find it useful to create a "portfolio" of objectives and public programs knowing that over any short period they cannot simultaneously pursue all the objectives or properly suppport all the programs. Therefore, they adopt a sequential attention to their panoply of goals and programs. However, to keep a currently low priority activity in the "portfolio"--one never knows when it may be needed in the future--it is necessary to offer "policies for show" or acts of symbolic reassurance that do not absorb large amounts of valuable political capital or real resources.

Politics is a highly dynamic process. Decisions are taken in an atmosphere of imperfect knowledge (uncertainty), under pressure and with limited time for analysis or reflection. (This is partly attributable to ubiquitous, instantaneous communications.) Politicans recognize that exogenous changes in the environment will alter voters' perceptions (and their own) and require different policy priorities and responses over time -- see Stanbury (in press, Ch. 4). At the same time, government grows by accretion as new responsibilities are assumed and grow (or at least are not cut back or discontinued). Even though priorities change, old functions carry on.[5]

One could interpret the growth of government activities as a combination of new, high-priority activities in response to the currently most pressing problems together with the often large remnants of yesterday's policy priorities that have been given a lower ranking on the agenda, but have not been discontinued to make room for new activities. The application of "lifeboat ethics" is conspicuously absent in government.[6]

Third, symbolic policies may be introduced as a substitute for substantive policies when governments face severe fiscal constraints. If there is no money to fund an expenditure program or if the legislature is balking at enacting a sweeping new regulatory regime, it is natural to consider a symbolic gesture. Hartle (1979, p. 73) lists as his first hypothetical injunction to cabinet ministers the following:

> Never do anything substantial when a symbolic gesture will suffice. Substantial actions cost money and voters do not like high taxes (exception: if an expenditure is made to reflect concern, ensure that the amount allotted appears to be sufficiently large that it cannot be treated as a token. The amount actually spent need not be equal to the amount allotted).

While Hartle states he is being facetious, there is much truth in this proposition.

In their analysis of federal advertising expenditures, Stanbury, Gorn and Weinberg (1983, p. 154) argue that "faced with adverse macro-economic conditions and no 'automatic' growth in tax revenues (relative to Gross National Product), the federal government has sought to substitute 'less obtrusive' and less expensive governing instruments...for the traditional taxation and direct expenditure policies." They point out that advertising has been used extensively to evoke positive perceptions of the government's performance in a variety of areas. For example, the Department of Energy, Mines and Resources spent at least $575,000 on newspaper ads beginning in August 1982 to tell Canadians that "complete energy security for Canada is this close" showing a quarter of an inch between thumb and forefinger. Stanbury et al. (1983, p. 157) argue that "the substitution of advertising for other forms of action might be described as a policy of "let them eat images...instead of going to the expensive and perhaps unsuccessful job of changing reality, it is cheaper to change people's perceptions through persuasive communications." They conclude, however, that purely symbolic policies may have an ironic result; "it is the possibility that the waste of resources will be less if more tax dollars are spent on advertising rather than vastly more dollars on a substantive but ineffective program."

Fourth, "policies for show" may be a cynical response by a government seeking to placate one group of voters while not alienating another group. Such a policy can succeed because of imperfect knowledge, costly information, asymmetric knowledge (ignorance) and the skillful use of persuasive communications -- recall Section 2 above. It is hard to differentiate this approach from the human tendency to try to avoid making hard choices, i.e., to try for policies that do not hurt anyone. After all, the art of politics lies in compromise and conciliation to achieve the possible rather than the ideal.

However, there appears to be evidence that regulation is a governing instrument that has been used in a somewhat cynical fashion. Consider the case of competition policy. Baggaley (1982) shows that agitation against the National Policy of tariff protection, a severe recession with many business failures, and the widespread existence of combines (price fixing agreements) was followed by a parliamentary investigation of restraints of trade in 1888. The following year Canada's first antitrust statute was enacted--one year before the famous Sherman Act of the United States.

While Conservative politicians were able to point to the new legislation as evidence of their concern for the interests of consumers, they were careful to (i) draft the statute in such a way as to make it literally unenforceable, and

(ii) not to provide any means by which the federal government could enforce it. (See Gorecki and Stanbury, 1984.) Prosecutions were to be left in the hands of the provincial attorney's general--who was known to be unsympathetic to the new legislation. Not surprisingly, the first successful prosecution did not occur until 1906. Therefore, while they trumpeted the legislation to consumers, Conservative politicans could quietly reassure their friends in the business community--who financed the party--that they would not be inconvenienced by the new law against restraints of trade.

Even though the 1889 legislation was amended and extended more than a score of times since (see Stanbury, 1981), and the number of prosecutions have increased very substantially since the 1960s (see Gorecki and Stanbury, 1979, and 1984), virtually all analyses of Canada's competition policy conclude that it is one of the weakest among Western industrialized countries.[7] Between 1977 and December 1985 the federal government has introduced three separate bills to strengthen the law, particularly as it relates to mergers and monopolization. On two occasions, the opposition of the business community forced the government to allow the bill to die on the Order Paper (Stanbury, 1985c). The latest attempt (Bill C-29, April 2, 1984) was delayed so long by negotiations with three major trade associations over the contents of the bill that it was not passed before the general election on September 4, 1984.

It is not too strong to argue that the long, dragged-out process of reform (which stretches back to 1966--see Stanbury, 1977) was never really intended to enact new effective antitrust laws. Rather, it was an exercise in symbolic politics to give the less sophisticated consumers the impression their interests were being protected while at the same time privately telling the business community that no such legislation would be enacted. Certainly the government did not use its majority to effect its will on competition policy as it did on several other occasions with respect to other legislation that was opposed by business (e.g., the National Energy Program).

4.0 THE NATURE OF SYMBOLIC POLITICS

Edelman tries to answer the following question: how is the "consent of the governed" obtained in a society in which there are great disparities in wealth, status, and power, and where there is reason to believe that persons enjoying little of these would benefit from a change in their relationship to the rest of society? In three books (1964, 1971, 1977) he has focused on the relationship between political authorities and mass publics and, in particular, on the capacity of elites to use the symbolic content of communications to provide the reassurance and leadership sought by the general population. In the last book for example, Edelman (1977) focuses upon how language and symbols are used to justify inequality and chronic social problems.

Edelman (1977, p. 4) emphasizes that "if political language both excites and mollifies fears, language is an integral facet of the political scene: not simply an instrument for describing events but itself part of the events, shaping their meaning and helping to shape the political roles officials and the general public play". Edelman (1977, p. 4) argues that political leaders obtain support for their policies by a combination of evoking threats to the personal security of individuals, and by offering reassurance: "through the evocation of threat and reassurance, leaders gain followings and people are induced to accept sacrifices and to remain susceptible to appeals for support." He suggests that effective leadership, i.e., the maintenance of power, requires that while feelings of insecurity be assuaged, they should not be eliminated.

Political cognitions[8] are often complex and contradictory. How we see a political event provides a great deal of information about us. They are complex "because they are social in character, not confined inside the head of a single person .... Class ties, group identification, reference groups and other kinds of 'significant others' help shape patterns of belief ..." (Edelman, 1977, p. 11).

Edelman (1977, p. 16) notes that through the rise of metaphor, metonymy and syntax, politicians are able to "evoke mythic cognitive structures in people's minds." For example, he suggests that the phrase "training programs" for the unemployed is a metonymic evocation of a larger structure of beliefs:

> that job training is efficacious in solving the unemployment problem, that workers are unemployed because they lack necessary skills, that jobs are available for those trained to take them. Because each component of this interrelated set of beliefs is dubious, job training has been largely ineffective as a strategy for decreasing unemployment. But people who are anxious to fight unemployment and eager to believe the problem can be solved without drastic social change are ready to accept this kind of reassuring cue.

At a more concrete level, politicians are able to benefit from the fact that the enactment of legislation is seen differently by the general public and by the "professionals". The public may believe that the existence of a new statute is both proof that a government cares about their problems and that it has taken steps to ameliorate them. The professionals know better.

Edelman (1977, pp. 17-18) points out that

> The form of legal language also conveys a reassuring message regardless of its content. Because the language of statutes, constitutions, and treaties consists of definitions and of specific commands to judges, administrative officials, and the general public to behave in ways specified by elected representatives of the people, its very form offers reassurance of popular sovereignty and the rule of law. Lawyers take the ambiguity of legal language for granted in their practice, constantly disputing the meaning of terms; but to the general public legal language symbolizes precision and clarity in specifying the will of legislatures and constitutional conventions.

4.1 Maintaining the Illusion

How do politicians maintain the illusion that a policy that, in fact, hurts one group of voters and helps another group, is beneficial to both? Their capacity to do so depends upon the existence of imperfect knowledge (uncertainty) and costly information. But before we examine how the illusion is maintained let us think briefly how a politician can rationalize the use of policies for show that maintain the illusion that a problem is being ameliorated in a substantive sense. Hartle (1979, p. 92) outlines the politician's rationalization in the following syllogism:

1. Most people (votes) are misinformed (prejudiced).
2. But they are the only people (voters) we have.
3. In formulating our policies and our platform if we do not take account (pander to these realities about people) the other political party(ies) will.
4. We (I) will be defeated (not form a government) (no longer be minister).
5. The deserving (deluded) voters would be hurt more.
6. It is better for them that we fool them a little now to save them from their own ignorance which would lead them to vote for the other party.
7. The other party(ies) would really hurt them.

How can a government maintain the illusion that it is, for example, helping consumers, while not hurting business? First, it relies on the fact that influential businessmen are substantially better informed (in a world of imperfect knowledge and costly information) about the effects or likely effects of government policies on their bottom line than are consumers. It is rational for them to be better informed just as it is rational for the individual consumer to be virtually ignorant about the same policies. Recall Downs (1957, p. 149) who notes that "Government's anticonsumer bias occurs because consumers rationally seek to acquire only that information which provides a return larger than its cost."

Second, even if consumers were as well informed as businessmen, it would not be rational for them to invest in lobbying. Since the benefits of preventing businesses from engaging in restraints of trade, in terms of the higher price of particular goods and services, is absolutely small, they will exceed the costs of lobbying to enact legislation to prevent such restraints. Even if all consumption items are increased in cost by 10% due to restraints of trade, the expected benefit of lobbying is small because the probability that any individual consumer can influence the government to adopt an effective competition policy is minute (one in a million?).

Third, the government can maintain the illusion by the provision of subsidized, selected and targetted information to both consumers and businessmen. See, for example, Trebilcock et al. (1982). The former can be reassured publicly that something has been done or that the government is trying to put a policy in place that will alleviate their problems. Businessmen can be assured privately that the policy in place will not impose a burden on them once they understand how to find and use the carefully crafted loopholes built into the policy. Alternatively they can be reassured that while the government will publicly, even passionately, declare its desire to enact new legislation or get a new program in place it will never actually come to pass. The former strategy is likely to be more politically astute since the government can point to something tangible in speaking to consumers, i.e., they can cite the statute and the name of the new regulatory agency and even point out that its budget is $X millions per year and that it employs Y people to regulate business in the name of protecting consumers.

It should be noted that there are limits to this approach. For example, the mass media delights in exposing political contradictions particularly if they can be cast in terms of interesting personalities. Second, opposition parties, in seeking political support, may find it in their interest to prick the balloon of the illusion the government seeks to maintain.

4.2 The Strategic Use of Loopholes

Passage of a statute, as we have noted earlier, may be largely a symbolic act. It may not actually make a contribution to solving the substantive problem toward which it is perceived to be directed. The "loopholes" in a government policy can take a variety of forms and the term can be used to refer to things other than "escape clauses" built into the technical language of a statute or its regulations. In general, they are features of a policy that are understood by politicans *ex ante* to have the effect of limiting (or vitiating) its effectiveness in achieving its putative purposes. Consider the following:

- The government may fail to provide an organization to administer and enforce the constraints embodied in the statute.
- The government may fail to vote sufficient funds to properly administer the statute.
- The statute may be assigned to an administrator or agency that is already overburdened or known to be actively hostile to its putative purposes. There is the possibility of "bureaucratic repeal" in which senior public servants effectively refuse to enforce a regulatory statute that they believe should not be on the books (e.g., the Robinson-Patman Act in the U.S. in the late 1970s and early 1980s).
- The subordinate legislation accompanying the statute (e.g., regulations subsequently approved by cabinet) may consist of exemptions, or limitations on the use of the statute. Such regulations are usually all but invisible to the general public but fully appreciated by the "attentive public", e.g., those likely to be most affected by the statute.

- Provisions may be built into the legislation that are known to be offensive to another level of government and also of questionable constitutionality--hence likely to be successfully challenged in the courts by the other level of government or by private parties.
- Provisions may be included in the statute or regulations that give an enormous range of discretionary authority for a minister or the cabinet that could be used systematically to defeat the putative purposes of the statue.
- Regulatory decision-making may be delegated to a specialized regulatory agency, which is staffed with "political hacks" sensitive to the government's hidden agenda. Alternatively, the government may rely on the firms subject to regulation to "capture" the agency and turn regulation to its own purposes.
- The statute may include low maximum penalties for its violation so that those brought before the courts discover that "crime pays," hence they are able to flout the regulatory constraints embodied in the statute.
- Incorporate into the most convoluted, abstruse and obscure sections of the statute (or regulations) provisions that effectively vitiate the simple, clear and comprehensible provisions that appear to relate most closely to the putative objectives of the legislation.

Obviously, there are limits on this type of behaviour. In time, the scrutiny of the press, opposition parties and interest groups may be able to detect the fact that a particular piece of legislation is ineffective "by design". However, this process takes time and the government of the day may achieve some political benefit in the months, or more likely, years that pass before the "deception" is detected. Given the fairly short term memory of voters, exposure of a government's strategic behaviour may not have much effect unless it occurs shortly before or in an election campaign. The long-term, cumulative effect of the frequent use and exposure of such policies may count against a government. However, the "noise" in the political system makes it hard to be sure this is the case.

5.0 IDENTIFYING A "POLICY FOR SHOW"

How does one know if a statute is simply a symbolic gesture of reassurance to the less sophisticated? One can undertake a very close analysis of the statute, regulations, judicial interpretations, and administrative procedures that make up the totality of a piece of governmment policy. By looking for the type of "loopholes" described above one might be able to infer that a policy is only symbolic. But this is probably not the best test. Rather, one should examine the effects (or non-effects recalling Sherlock Holmes' remark about the dog that did not bark) of a policy after it has been in place for some time so that they are more likely to be clearly defined. Moreover, following Stigler (1982), with a well established policy there is time for politicians to obtain feedback and thereby alter the policy to avoid undeserved (unacceptable) effects and to achieve desired effects.

In the case of rent regulation, therefore, that has been in place for a decade in Ontario, an examination of its effects (see Stanbury and Vertinsky, 1985, Ch. 6) should give us clues to whether or not the policy is working in the sense of holding rents below equilibrium levels. Suppose (and this is not intended to prejudge the conclusions of the Commission of Inquiry into Residential Tenancies) a careful analysis reveals all of the following facts:

- little or no deterioration in the quality of rent-controlled dwellings;
- relatively little effort by owners to convert rental units to condominiums or otherwise remove them from the housing stock subject to controls;

- little or no decrease in the supply of new rental units that are not subject to controls when the effects of interest rates, the rate of new family formation and other demand related variables are taken into account; and
- little or no change in the real market value of rent-controlled buildings since controls were implemented.

This set of evidence suggests that rent controls are "not working" in the sense of establishing an effective price ceiling. Regulation would not appear to be determining the average level of rents. Rather, market forces are doing so.[9]

When politicians maintain a policy whose consequences are known and the actual effects of the policy are inconsistent with the putative objectives of the policy we can fairly conclude it is a symbolic policy designed to reassure both tenants and landlords. The former feel protected. The latter recognize that, despite the new forms they must fill out and hearings they must attend (the costs of which are an allowable expense under both the Income Tax Act and the rent regulations), the net effect on their economic position is very limited. Moveover, under the proper conditions, the rent control "ceilings" may actually become "floors" while criticism from tenants may be diverted to the rent control agency or at its parent, the provincial government.

Symbolic politics and "policies for show" may produce undesirable side effects for the political system as a whole: "...the excessive use of symbolic politics and exhortation can easily lead to the alienation of citizens from the state and from democratic government. It can bring government and politicians into disrepute" (Doern and Phidd, 1983, p. 318). This seems to be a greater concern in Canada, a nation founded on the principle of "peace, order and good government," than in the United States, a nation founded on the principle of "life, liberty and the pursuit of happiness." However, disenchantment with the symbolic politics practiced by the governing parties may result in support for other parties and candidates. Presumably, therefore, we can rely on competition among political parties on the "sincerity" dimension to determine the optimal amount of this desired good.

Notes to Chapter 4

1. Ellul, (1967, p. 113) states: "What we now have is a universe in which everything is translated into images, in which everything is image". Recall W.I. Thomas' proposition that "if a man considers a situation real, its consequences are real for him". Ellul continues, "not just the individual fact but the whole fabric of things is translated or transformed into images". The fact is that there are sharp bounds on a man's capability of direct experience. Most experience is literally figurative. It is indirect through the meanings conveyed by words.

2. The role of the electronic media as the primary source of news for many people is discussed in Stanbury (in press, Ch. 11).

3. Ellul (1967, p. 184) argues that it is an illusion that "ultimately all problems are political, and solvable only along political lines". It is an illusion to believe that the fault lies, not in ourselves but in our political institutions. As Ellul (1967, p. 180) puts it, "politics cannot deal with man's personal problems, such as good and evil, or the meaning of life, or the responsibilities of freedom". One cannot escape from one's personal responsibilities by demanding that the state solve all problems.

4. The processes by which the problems of individuals may be converted into public policy actions are discussed in Stanbury (in press, Ch. 4).

5. Herbert Kaufman, in his book, Are Government Organizations Immortal?, was forced to conclude that they have remarkably long lives, and when their titles disappear their functions often continue incorporated into another department or agency.

6. This phrase stems from the idea that in a lifeboat already loaded to the gunwales and where there are also survivors in the water, the addition of one more person to the boat requires that a person get out of the boat and try to make it on his own in the water.

7. See, for example, Brecher (1982), Stanbury (1985c), and Kaiser (1982).

8. "What is appearance and what is reality?" This is a classic question in analyzing political actions and how the public responds to various stimuli. "The analyst of public policy formation needs to know how cognitions are evoked and how they are structured, whether or not they are 'realistic' in any sense" (Edelman, 1977, p. 9).

9. This is not to say that controls could not have had the effect of reducing the disperson in the monthly rent for apartments of a given quality, location, etc. In other words, controls may prevent a type of rent "gouging" consisting of charging some tenants (e.g., the ignorant and the least mobile) more than the "going" market rent. However, if the rental market is reasonabaly competitive, the incidence of this type of "gouging" is likely to be very limited. More generally, see Stanbury and Vertinsky (1985).

Chapter 5

THE ORIGINS OF RENT REGULATION IN ONTARIO: AN OVERVIEW

1.0 INTRODUCTION

This chapter outlines a positive analysis of the "determinants" of one act of government intervention, at one time, and in one place. It draws upon the general public choice model discussed in Chapter 2. An overview of the events leading up to the enactment of the rent control legislation can be found in Figure 5-1.

Chapters 6, 7 and 8 amount to a case study of the economic, social and political forces that jointly produced a major act of government intervention: the introduction of rent regulation in Ontario in 1975. The objective of the case study is to understand why the Progressive Conservative Party, which then formed the Government, in the context of an election campaign, promised to introduce a form of rent regulation.

Chapter 6 consists of a narrative of the events in the six months preceding the calling of a provincial general election on August 11, 1975. As we shall see, it would be a mistake to assume that competitive party promises in the midst of a hard-fought election campaign was the first time the issue of rent controls attained a high level of visibility on the public policy agenda. For at least six months prior to the start of the campaign tenant groups, local politicians in Metro Toronto and some provincial politicians argued that the rent increases requested by some landlords amounted to "gouging". While a limited form of "rent review" was first promised by Conservatives on July 30, 1975, it was not enacted until December 18. However, the legislation was made retroactive to July 29, 1975. The importance of rent control as an issue in the election campaign between August 11 and September 18, 1975, election day, is chronicled in Chapter 7.

The period after election day until the first rent control legislation was enacted in December 1975 is discussed in Chapter 8. As we shall see, it is a large step from a political promise to new legislation, particularly when there is a minority government and the opposition parties strongly support a particular policy. In early October, for example, the new Minister of Housing made public statements indicating that he was searching for other means than rent control to deal with rapid rent increases. The Premier, however, reiterated the party's election promises to legislate against "unconscionable" rent increases. Then on October 13, Prime Minister Trudeau announced nation-wide wage and price controls to be administered by the Anti-Inflation Board (Maslove and Swimmer, 1980). The subsequent Ontario legislation reflected both the fact the Conservatives were a minority government and national concerns about rampant inflation.

Any narrative, by definition, emphasizes some facts and excludes other. Even if it were possible to include "all the facts" -- and it is not -- the way in which those facts are ordered and presented reflects at least an implicit theory of what has taken place. In this chapter, we believe it is helpful to use the public choice approach to understand how and why rent regulation came into existence in Ontario in 1975. However, our discussion in the remainder of the volume gives more weight to three factors than does the public choice perspective. Those factors are the changes in underlying economic conditions; the actions of other governments which serve as precedents; and the role of ideology in influencing the policies a political party will offer voters in the hope of obtaining votes. We emphasize that in the political arena changes in economic conditions as such are less important than the public's and the politician's perceptions of changes in economic conditions and the public's expectations about economic conditions.

Figure 5-1

Chronology: The Origin of Rent Regulation in Ontario, 1975

- March 26: At the request of the Toronto City Council, the NDP introduces a private member's bill, An Act to Provide for Rent Control and Security of Tenure, in the Ontario Legislature. The bill would allow rent increases of 5% per year and require landlords to justify larger increases before a tribunal. [The Bill required the provincial government to amend the City of Toronto Act so that the City may impose local rent controls. The Minister of Housing opposed the amendment.]

- April 15: Ontario Minister of Housing Donald Irvine states that the Conservative Party "does not support rent controls and will not support rent controls at this time or in the future because we believe supply is the answer." He makes a similar statement a week later.

- May 14: Both landlord and tenant groups appear before the Private Members Bills Committee to testify on the City of Toronto's request to be able to impose local rent controls. The Bill is publicly opposed by the Deputy Minister of Housing who said rents in Metro Toronto were "a bargain." Property owners mount a strong lobbying campaign against rent controls including the use of advocacy advertisements during the Committee hearings which are held over several weeks.

- June 5: Ontario Housing Minister Irvine states that if the federal budget to be announced in two weeks includes wage and price controls, "rent control with a stabilization factor would be very much in order."

- June 6: Before the Private Bills Committee the 23 Liberal MPPs propose local rent review tribunals with the power to impose a settlement on disputes over rent increases.

- June 6: NDP Leader Stephen Lewis proposes strict rent controls to protect tenants along the lines of the scheme put in place in British Columbia by the NDP in 1974.

- June 6: Metro Council chairman Paul Godfrey proposes to licence landlords locally and to remove licences for rent gouging. Other Progressive Conservative MPPs or PC candidates are quoted in the newspapers as favoring some form of rent control.

- June 6: Both the Toronto Star and the Globe and Mail publish editorials opposing the introduction of rent controls.

- June 25: Ontario Housing Minister Irvine rejects the City of Toronto's request for the power to impose rent controls.

- July 18: The provincial Legislature is recessed. An election is expected later in the summer or in the fall.

Figure 5-1 cont'd

- July 30: The Ontario Cabinet announced plans to set up rent review boards in cities with a serious shortage of rental accommodation where the local government requested such a board. The Cabinet also announced that tenants' security of tenure would be strengthened by amendments to the Landlord and Tenant Act, also in the fall of 1975. The Minister of Housing stated that he continued to oppose rent control. The PC's proposal is widely criticized as inadequate, although the Toronto Star agreed with the rejection of rent controls.

- August 11: Premier William Davis calls a provincial general election for September 18.

- August 18: Premier Davis, speaking to Tory candidates and party officials, said that if the PCs were re-elected they would find a "mechanism" stronger than what the party had previously proposed to prevent rent gouging, but it would not be rent controls. He indicated the Tories' plan would be spelled out in more detail during the campaign.

- August 25: The 16-page Liberal Party platform includes the same proposal for rent review put forward on June 6.

- September 2: Premier Davis announces that, if elected, the Unconscionable Transactions Act will be amended to give the courts the power to determine if rent gouging has occurred and to order a more reasonable increase. There would be no penalty for landlords found to be gouging, however.

- September 4: NDP Leader Stephen Lewis attacks the PC's proposal and promises strong rent controls. He creates media visibility by presenting a series of specific cases of rent gouging. These had been solicited by the NDP in its door-to-dooor campaigning and in newspaper ads in three cities in August.

- September 5: A survey of 500 apartments for the North York Tenants' Information Program found that the latest increase averaged 16.9% while one-quarter of those surveyed experienced an increase of 20% or more. The survey reported that 92% of tenants favored rent control.

- September 5: In light of Stephen Lewis' revelations and the North York survey, the Toronto Star reverses its editorial opposition to rent controls. It also invited its readers to write to the paper about the problem -- and was deluged with letters. The Star subsequently ran a series of feature articles on rising rents.

- September 5: Liberal Leader Robert Nixon promises that if his party forms the next government it will establish rent review boards with the power to rollback excessive rent increases.

- September 6: The Task Force on the Status of Tenants, created by Toronto City Council, recommends that the City obtain the power to impose rent controls and that it appoint a housing ombudsman.

Figure 5-1 cont'd

- September 9: Premier Davis makes several statements "clarifying" his party's position on rent review, but there is confusion regarding the powers to be given to the proposed rent review boards.

- September 18: The Progressive Conservative Party under William Davis is re-elected as a *minority* government.

- October 13: Prime Minister Trudeau announces a national program of wage and price controls to be administered by the Anti-Inflation Board. The Liberal Party thus reversed its position during the campaign leading to the general election on July 8, 1974.

- October: The Community Review and Research Group of the Social Planning Council of Metropolitan Toronto publishes a 50-page report on rent controls. It recommends local rent control boards be set up in Metro Toronto and that a ceiling of 40% be imposed on rent increases, with the onus on the landlord to justify any higher increases based on higher costs.

- November 6: Bill 20, legislation to enact rent controls in Ontario retroactive to July 29, 1975 is given first reading.

- November 14: Bill 26, amendments to the *Landlord and Tenant Act* are given first reading.

- November 20: Bill 20 is referred to the Select Committee on Bills 26 and 20.

- December 1-5: Public hearings were held in Toronto. Over 108 Briefs were received by the Select Committee from interested groups -- mainly landlords. After the hearings the Select Committee reported back to the Legislature and Bill 20 was referred to the Committee of the Whole House.

- December 16: The Committee of the Whole House reports with amendments to Bill 20. Bill 20 is given second reading.

- December 18: The rent control bill (Bill 20) and the amendments to the *Landlord and Tenant Act* (Bill 26) are given third reading and Royal Assent. The controls legislation is retroactive to July 29, 1977 and is to expire on August 1, 1977. Rent increases are limited to 8% per year, although landlords may apply for larger increases which they must justify on the basis of cost increases.

We now set out the main strands of the theoretical framework that are used to analyze the events and actions described in Chapters 6, 7, and 8.

2.0 STRANDS OF A THEORY OF THE ORIGINS OF RENT REGULATION IN ONTARIO

2.1 Strand 1, Economic Pressures

Changes in economic conditions over the winter of 1974 and the spring of 1975, particularly highly-publicized "unconscionable" rent increases, put greater pressure on the more than one-third of Ontario households that are renters -- see Figure 5-2. These pressures were most acute in larger urban areas, notably Toronto, where as Table 5-1 shows almost 44% of households are tenants, not homeowners.[1] Moreover, the median income of tenant households (which tend to be smaller than those that are homeowners) is at least one third smaller than that of homeowners (Clayton Research, 1984).

By the spring of 1975 it was widely believed that with demand outstripping supply in most urban centres in Ontario, the rental accommodation market had tightened. For privately-owned buildings of 6 or more units in Toronto, the vacancy rate as measured by CMHC in June and December decreased steadily from 3.3% in December 1971 to 1% in January 1975 (as cited in Community Review and Research Group, 1975, p. 5). Bucknall (1976, n.14), citing CMHC data, states that the vacancy rate in Toronto for privately initiated apartments was as follows: 1970, 2.8%; 1971, 3.0%; 1972, 3.3%; 1973, 2.1%; 1974, 1.0%; April 1975, 1.1%; October 1975, 1.8%.

The more comprehensive data in Table 5-2 present a mixed picture. For example, in October 1975, depending on the size of the unit, vacancy rates in Toronto were from 1.6% (1 bedroom) to 2.9% (3+ bedrooms). Six months earlier, they were between 1.0% (2 bedrooms) and 2.3% (3+ bedrooms). In June 1974, vacancy rates in Toronto were lower than they were in 1975, ranging from 0.8% (2 bedrooms) to 2.1% (bachelor units). In Ottawa, for the five observations at

Figure 5-2

OUTLINE OF HOW RENT CONTROLS CAME TO ONTARIO IN 1975

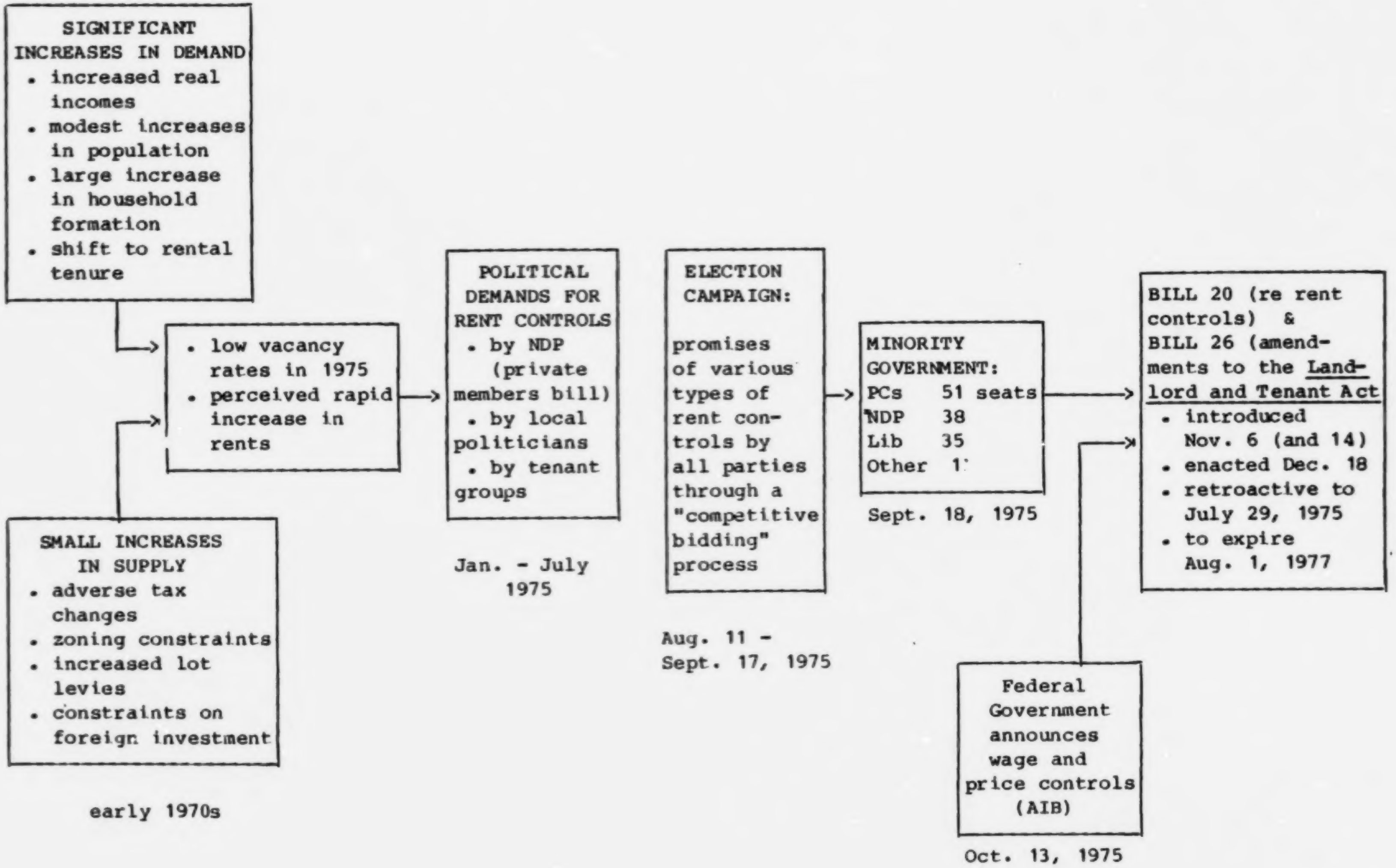

SIGNIFICANT INCREASES IN DEMAND
• increased real incomes
• modest increases in population
• large increase in household formation
• shift to rental tenure
SMALL INCREASES IN SUPPLY
• adverse tax changes
• zoning constraints
• increased lot levies
• constraints on foreign investment
early 1970s
• low vacancy rates in 1975
• perceived rapid increase in rents
POLITICAL DEMANDS FOR RENT CONTROLS
• by NDP (private members bill)
• by local politicians
• by tenant groups
Jan. - July 1975
ELECTION CAMPAIGN:
promises of various types of rent controls by all parties through a "competitive bidding" process
Aug. 11 - Sept. 17, 1975
MINORITY GOVERNMENT:
PCs 51 seats
NDP 38
Lib 35
Other 1
Sept. 18, 1975
BILL 20 (re rent controls) &
BILL 26 (amendments to the Landlord and Tenant Act
• introduced Nov. 6 (and 14)
• enacted Dec. 18
• retroactive to July 29, 1975
• to expire Aug. 1, 1977
Federal Government announces wage and price controls (AIB)
Oct. 13, 1975

Table 5-1

Percentage of Dwelling Units Occupied by Tenants, Selected Census Metropolitan Areas, 1981

Ontario		Other	
Hamilton	36.6%	Calgary	42.7%
Kitchener	39.2	Edmonton	44.7
London	43.7	Vancouver	41.5
Oshawa	33.5	Montreal	58.3
Ottawa-Hull	47.7	Winnipeg	41.2
St. Catharines-Niagara	29.0		
Sudbury	36.3	Canada	45.4%
Thunder Bay	30.7		
Toronto	43.5		
Windsor	32.3		

Source: CMHC (1984, p. 86).

six-month intervals preceding October 1975, vacancy rates increased slightly in three of the four size categories.

Looked at another way, namely in terms of the absolute vacancy rate where 2% to 3% is held to be a "balanced market", then of the six Ontario cities reported in Table 5-1 in October 1975, most were in this range. Thunder Bay and Windsor were well outside this range.

Despite the fact that the City of Toronto's population declined by 11.1% between 1971 and 1976, there was pressure on rents. The data reported in Table 5-3 were collected by Canada Mortgage and Housing Corporation in the Toronto CMA for vacant units in buildings of six or more units. These buildings make up a substantial fraction of rental stock in Toronto.

We can summarize these data by looking at the range of increases in rents for the four sizes of rental units over the 6 and 22 months preceding October 1975.

Table 5-2
Vacancy Rates in Privately Initiated Apartments of Six Units or More, Ontario Cities, December 1973 - October 1975

CITY		December 1973	June 1974	December 1974	April 1975	October 1975
Toronto	ba	1.4 %	2.1 %	1.3 %	1.7 %	2.0 %
	1b	1.6	1.0	1.0	1.0	1.6
	2b	1.5	0.8	0.9	1.0	1.7
	3+b	1.5	0.9	2.1	2.3	2.9
Ottawa	ba	1.8	4.1	3.4	3.8	2.5
	1b	2.1	4.5	2.9	2.0	2.4
	2b	2.1	3.1	2.5	2.0	1.9
	3+b	1.0	4.6	3.4	2.2	4.6
London	ba	1.4	6.6	2.3	4.0	1.6
	1b	4.5	6.1	2.5	3.9	2.4
	2b	3.4	6.7	1.9	2.5	2.4
	3+b	5.9	9.3	1.4	0.6	2.9
Hamilton	ba	2.2	2.6	1.3	1.8	3.0
	1b	1.7	1.7	1.2	1.5	2.5
	2b	2.9	2.6	1.8	2.1	3.5
	3+b	2.9	3.2	2.4	1.7	1.9
Thunder Bay	ba	2.2	1.8	0.4	0.3	1.7
	1b	1.5	2.7	0.6	1.2	0.5
	2b	0.1	1.3	0.3	0.3	0.2
	3+b	0.0	1.7	0.0	0.0	0.0
Windsor	ba	3.3	3.5	2.5	4.8	5.7
	1b	1.8	2.5	1.7	2.5	2.9
	2b	1.9	2.1	1.4	4.1	4.2
	3+b	0.6	0.0	0.0	0.0	1.8

[ba= bachelor unit; 1b= 1 bedroom; 2b= 2 bedroom; 3+= 3 or more bedroom unit].

Source: Surveys by Canada [Central] Mortgage and Housing Corporation, Ottawa.

Table 5-3

Rent Increases in the Toronto Area, December 1973 to October 1975*

Specific Area	** size	Percentage Increase in Rent for the Six Months Ending June/74	Dec/74	April/75	Oct/75	% increase Dec/73 to Oct/75	Average rent in Oct/75($)
City of Toronto	ba	4.6	2.5	15.6	10.6	30.9	199
	1b	3.9	12.8	10.6	11.0	39.2	252
	2b	-8.1	13.3	20.9	2.8	22.6	331
	3b	-4.6	32.5	4.8	-2.1	27.6	412
Etobicoke	ba	n.a.	n.a.	20.4	10.7	23.1	176
	1b	41.8	12.0	-21.0	4.3	42.5	218
	2b	1.7	6.2	15.3	9.9	30.8	310
	3b	5.6	6.3	12.7	25.4	52.8	434
Scarborough	ba	n.a.	n.a.	n.a.	n.a.	n.a.	187
	1b	7.3	11.7	2.9	4.4	28.1	214
	2b	12.2	24.6	-11.4	4.5	35.1	254
	3b	15.5	2.8	2.1	12.5	35.5	332
York Borough	bc	0.7	21.9	0.9	3.0	27.2	173
	1b	7.1	12.7	0	5.4	27.2	215
	2b	10.0	12.7	5.4	-1.6	26.5	253
	3b	15.1	15.4	14.6	-11.5	28.9	295
East York	ba	7.3	5.6	-14.0	13.4	16.6	176
	1b	10.7	3.6	13.3	8.1	35.0	239
	2b	36.0	-1.4	12.0	-0.3	44.4	309
	3b	n.a.	n.a.	-5.7	-14.3	45.5	432
North York	ba	n.a.	n.a.	n.a.	16.1	n.a.	173
	1b	4.0	18.8	-7.0	11.0	27.6	222
	2b	8.7	28.8	4.4	-0.4	35.4	264
	3b	16.5	18.9	16.5	-11.6	36.0	321
Mississauga	ba	6.5	0	10.9	0	18.1	163
	1b	6.3	32.0	0	-4.5	34.0	213
	2b	5.2	72.9	6.4	-33.3	26.4	244
	3b	-1.3	76.1	-4.4	-25.7	25.3	292
Remainder of Toronto CMA	ba	n.a.	n.a.	n.a.	n.a.	n.a.	n.a.
	1b	8.2	9.4	2.4	16.8	36.1	215
	2b	8.7	3.0	26.9	3.7	35.9	250
	3b	-8.4	27.1	-2.7	5.5	20.6	287

* All figures are based on vacant units in privately initiated buildings, new and existing containing 6 or more rental units. The survey covered more than 200,000 units, but CMHC states "no attempt has been made to adjust to the total universe, the figures shown are not necessarily representative of the private rental market as a whole."

**ba = bachelor suite; 1b = 1 bedroom unit; 2b = 2 bedroom unit; 3b = 3 bedroom unit.

Source: Surveys conducted by Canada Mortgage and Housing Corporation, Toronto regional office.

	increase Dec.'73 to Oct.'75	increase April '75 to Oct.'75
City of Toronto	22.6 to 39.2%	-2.1 to 10.6%*
Etobicoke	23.1 to 52.8	4.3 to 25.4
Scarborough	28.1 to 35.1	4.4 to 12.5
York Borough	26.5 to 28.9	-11.5 to 5.4
East York	16.6 to 45.5	-14.3 to 13.4
North York	27.6 to 36.0	-11.6 to 16.1
Mississauga	18.1 to 34.0	-33.3 to 0.0

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* range depends on the size of the unit

In the City of Toronto, depending on the size of the unit, rents increased between 22.6% and 39.2% between December 1973 and October 1975. In Etobicoke, the increases were even higher, 23.1% to 52.8%. Overall, it appears that rents in the Toronto CMA increased by at least 20% and in some cases by over 40% in the 22 months preceding October 1975.

The rate of increase during the period April to October 1975 varied enormously by size of unit and by area. In fact, average rents decreased for some types of units in three of the seven areas measured in the Toronto CMA. At the other end of the spectrum, rents in North York increased by 27.6% to 36.0% in the six months ending in October 1975.

The accuracy of these data is impossible to ascertain. It is possible that rent increases for vacant units (as collected by CMHC), being the price of units at the margin, were substantially above those for the stock as a whole, i.e., the average increase in rents. The increases reported in Table 5-3 for 1975 seem extremely high when compared to other data on rent increases in Toronto. For example, the Community Review and Research Group (1975, pp. 5-6) reported the following average rent increases in 1975, based on limited surveys:

- 14.2% - 18.2% (Urban Development Institute)
- 17% (Metro Tenants Federation re North York); and
- 11.7% for the year ending July 1975 (Ontario Ministry of Municipal Affairs and Housing).

While the Housing Ministry's survey indicated that from mid-1974 to mid-1975 that rents in Metro Toronto increased, on average, less than 12%, some 2.4% of tenants surveyed experienced increases greater than 30%. This small percentage, however, amounted to 4000 households (or 10,000 if the estimate for Metro Toronto could be extended to the province as a whole). As the Ministry of Consumer and Commercial Relations (1978, p. 14) noted, "this being the case, there existed enough individual hardship to spread a good deal of unease throughout the rental community". At the same time, it should be noted that the Ministry survey of the 10 Census Metropolitan Areas in Ontario found that between 21% and 48% of tenant households did not experience any rent increase in the previous 12 months. Yet inflation was running at a rate of over 10% annually.

The data in Table 5-2 are also not consistent with Statistics Canada rent indexes for three Ontario cities provided in Table 5-3. For example, these data indicate rents rose in Toronto by only 17% over the five year period 1971-1975. Rents rose only by 7% during 1975 in Toronto. While the Statistics Canada rent index is biased slightly downwards (see McFadyen & Hobart, 1978; and Smith, 1984, p. 84, n. 12), the size of this bias is much less than the upward bias in the CMHC rent index prior to 1978 when the method was changed.

The data in Table 5-3 are also not consistent with Statistics Canada rent indexes for three Ontario cities provided in Table 5-4. For example, these data indicate rents rose in Toronto by only 17% over the five year period 1971-1975. Rents rose only by 7% during 1975 in Toronto.

Sharp rent increases were not the only economic factor putting pressure on Ontario's urban households. The general inflation rate was in the double-digit range and rising. The data in Table 5-5 indicate that the Consumer Price Index rose by 10.9% and 10.8% in 1974 and 1975 respectively. Perhaps more importantly, the CPI rose by only 2.9%, 4.8% and 7.6% in 1971, 1972, and 1973

Table 5-4

Rent Component of the Consumer Price Index For Three Ontario Cities, 1971 - 1975

1971 = 100

Date	Ottawa	Toronto	Thunder Bay
1971 Jan.	99.3	99.3	99.4
June	99.9	99.8	100.1
1972 Jan.	100.9	100.7	100.1
June	101.5	101.3	102.3
1973 Jan.	103.9	102.1	104.2
June	104.6	102.8	107.4
1974 Jan.	106.4	104.1	112.3
June	108.0	105.2	117.7
1975 Jan.	110.8	108.9	120.4
June	111.9	111.4	123.4
Dec.	115.4	116.0	129.1
total increase over 5 years	16%	17%	30%

Source: Statistics Canada, Cansim data base D486533, D486783, D487033, rent component of the Consumer Price Index.

Table 5-5
Selected Economic Indicators, 1971-1975

Economic Indicator	1971	1972	1973	1974	1975
. % change in Net National Income per household (constant $)	4.9	5.2	7.3	4.5	0.0
. % change in personal income per capita in Ontario (current $)	8.5	10.9	13.1	15.9	12.9
. % change in Consumer Price Index	2.9	4.8	7.6	10.9	10.8
. % change in housing price index	4.5	4.6	6.5	8.7	10.0
. % change in food price index	1.0	7.6	14.6	16.3	12.9
. % change in energy price index	n.a.	2.8	9.0	15.2	13.5
. Unemployment rate in Ontario (%)	5.4	5.0	4.3	4.4	6.3
. Interest rate on 5-year conventional mortgages (%)	9.43	9.21	9.59	11.24	11.43
. % change in the help-wanted index in Ontario	-3.6	46.3	27.4	14.1	-32.4
. % change in output per person employed	4.8	4.0	3.7	0.4	-2.6
. average annual wage changes in major collective agreements - without COLA - in manufacturing (%)	n.a.	9.6	12.2	16.1	16.4

Source: Department of Finance, Economic Review, April 1983 (Ottawa: Minister of Supply and Services, 1984).

respectively. In other words, inflation was accelerating. When we examine some of the components of the CPI we find that food prices increased extraordinarily between 1972 and 1975 -- by 7.6% in 1972, by 14.6% in 1973, then by 16.3% in 1974 and by 12.9% in 1975. Energy prices show a similar pattern beginning in 1973 -- see Table 5-5. The housing price index, which reflects both rents and ownership costs, actually grew less rapidly than the CPI, food prices or energy between 1973 and 1975. However, the rate of increase was also accelerating, i.e., it was 4.6% in 1972, 6.5% in 1973, 8.7% in 1974 and 10.0% in 1975.

At the same time, unemployment was also rising and the rate of growth per capita income was slowing. It should be noted, however, that Ontario's average annual unemployment was about one percentage point lower in 1973 and 1974 than it was in 1971 and 1972. In 1975 it increased to 6.3% -- slightly below the national average of 6.9% that year, but well above the rate of 4.4% in 1974. The impact of the change in labour market opportunities in Ontario is better indicated by the change in the help-wanted index. As Table 5-5 indicates, this index, which increased by 14.1% in 1974, fell by 32.4% in 1975.

While the unions were able to gain large wage increases, over 16% in 1974 and again in 1975 in manufacturing, productivity in terms of output per employed person fell from 3.7% in 1973 to 0.4% in 1974 and actually fell by 2.6% in 1975. The rate of increase in nominal per capita income in Ontario in 1972 and 1973 was double the increase in the CPI. The rate of increase in real per capita income declined in 1974 and again in 1975 to about 2%. So while things were improving in 1975, they were improving at a far slower rate than they did in 1973 and 1974 when real per capita income in Ontario increased by about 5% -- see Table 5-5.

Adverse or declining economic circumstances do not themselves produce new legislation designed to ameliorate such conditions. Rather, they create an environment which makes political change possible. As we shall see when we discuss Strand 4, pressures for change often have to overcome considerable inertia for the political system has a high degree of friction. There are also countervailing forces such as political ideology and the competition of other issues for policy attention.

2.2 Strand 2, Political Pressure

Economic distress or the perception of economic distress often produces complaints to politicians that the government "do something" to alleviate the problem. As we shall describe in Chapters 6 and 7, the perception of sharply rising rents resulted in tenants seeking redress from both local and provincial politicians. This perception of rapidly rising rents was reinforced during the general election campaign by the NDP that actively sought examples of rent "gouging" and publicized them relentlessly.

In theoretical terms, the demand for political action in light of economic distress can occur in a number of different contexts. First, the distress may be genuine. Large numbers of people may be experiencing a sharp drop in their standard of living attributable to rising prices and/or falling nominal incomes. Second, the economic distress may be more perceived than real, which is not to say that it is any the less important for politicians provided the perceptions are strongly held. The gap between perceptions of distress and reality are likely to occur because of sharp changes from recent experience. For example, rents in real terms may have been declining for several years and then experience a sudden jump. Even after the sharp rise, rents may still constitute a smaller fraction of income (for a given size and quality of accommodation) than they did several years earlier, yet tenants feel much worse off because of the sudden change in their immediate circumstances. In some ways, it is the fluctuations in the rate of change that is resented more than the same total amount of change over the same period if attained "smoothly".

There may also be a gap between perception and reality causing feelings of distress because of dashed expectations. "Good times" generally create higher expectations for one's economic future. A sharp increase in rents, particularly in real terms, because housing expenditures are a substantial fraction of income, may be a bellwether that changes expectations in general. This feeling will probably be exacerbated, if, at the same time, a substantial number of people come to believe their economic situation is not advancing as rapidly as that of their reference groups. Comparisons are ubiquitous. Even though a person's real income (consumption opportunities) is rising, perhaps as rapidly as the average, he may feel worse off because the incomes of his neighbours, his co-workers or some other group seems to be advancing more rapidly.

How important were tenant groups in pressuring politicians to impose rent controls? Hartle (1984, p. 69) argues that in 1975 when rent regulation was first imposed in Ontario "tenants were not organized except incidentally as members of the NDP -- the party that had pressed for rent controls much earlier than the 1975 election campaign." He fails to note that the Federation of Metro Tenants' Associations was created in 1972. Hartle (1984, p. 70) suggests that the free rider problem "presumably forestalled the creation of pressure groups for the sole purpose of securing and maintaining the benefits of rent control for tenants generally". He suggests that the New Democratic Party and the Liberal Party, which formed the opposition in the Ontario legislature, in effect, were "out in front" of tenant organizations. His argument suggests that they acted as political enterpreneurs who spotted and transformed a latent issue into an issue prominent in the election campaign. Hartle (1984, p. 70) suggests that "probably most tenant associations were formed only when it became manifest that tenants had something to lose if they did not participate in the rent review process as it applied specifically to their own accommodation...".

Landlords also faced the free rider problem in organizing to block rent controls. However, Hartle (1984, p. 75) attributes the lack of anti-controls lobbying by landlords to the speed with which the issue developed in the summer and fall of 1975.

As we document in Chapter 6, during the spring and summer of 1975 Toronto tenant groups (notably the Federation of Metro Tenants' Associations) lobbied both local governments and the provincial government for the imposition of rent controls.[2] Landlord groups lobbied against rent controls and even used advocacy advertisements to do so. Note this is not in accord with Hartle's perceptions cited earlier. Members of all provincial parties which held seats in Metro Toronto came under particular pressure from both constituents and pressure groups to do something about high rent increases.[3] Even Tory candidates were vocal in their support of rent controls.

We note from Table 5-1 that tenants are concentrated in urban centres in Ontario. In general, the larger the city, the higher the fraction of tenants. With the aid of Table 5-6 we can see the relationship between a party's political base and its position on rent controls prior to the 1975 provincial election. The NDP, which had long favoured controls, won 79% of their seats in the 1971 election in urban ridings including Metro Toronto. The Progressive Conservatives, who won 72 of the 117 seats in the Legislature, won 69% of their seats in rural areas and in smaller cities. The PCs were most reluctant, as we shall describe in Chapters 6 and 7, to introduce rent controls. Urban seats were not that important to the party and the lingering remnants of its small town, free enterprise ideology kept the party from embracing rent controls quickly even after both opposition parties had done so.

The 1975 election saw the PCs reduced to a minority government and the NDP became the Official Opposition. The NDP doubled its number of seats in the Metro Toronto area and increased their total from 8 to 12 seats in other urban

Table 5-6

Distribution of Seats by Party and Region, Ontario Legislature, 1971 and 1975

1971 Election

Region	Progressive Conservatives	Liberals	New Democratic Party	Total Seats
Metro Toronto	16 (21%)	3 (15%)	7 (37%)	26
Other Urban *	8 (10%)	3 (15%)	8 (42%)	19
Rural and Smaller Cities**	54 (69%)	14 (70%)	4 (21%)	72
Total	78 (100%)	20 (100%)	19 (100%)	117

1975 Election

Region	Progressive Conservatives	Liberals	New Democratic Party	Total Seats
Metro Toronto	12 (24%)	3 (9%)	14 (36%)	29
Other Urban *	7 (14%)	9 (26%)	12 (32%)	28
Rural and Smaller Cities**	32 (63%)	23 (65%)	12 (32%)	67
Total	51 (100%)	35 (100%)	38 (100%)	124 ***

* cities over 100,000 population

** rural and cities under 100,000 population

*** Excludes one Liberal-Labour seat. Total seats in Legislature = 125

Source: calculations by the authors from Ontario electoral data.

areas. Proportionately, the NDP's biggest gains were in the smaller cities and rural areas: from 4 seats in 1971 to 12 in 1975. The Liberals, who also advocated rent controls, doubled their seats in urban areas (including Metro Toronto).

While these data reflect the results of the 1975 election campaign rather than the shifts that occurred during it, they do provide insight into the likely political calculus based on opinion polling prior to election day as applied to the rent control issue.

2.3 Strand 3, Political Competition and Entrepreneurship

Political entrepreneurship by individual politicians and political parties, which is reinforced by intense party competition, can raise a latent issue to an overt one and can make a smaller political issue into a larger one. Political influence is bi-directional. Interest groups and individuals make their views known to politicians and their advisors, and politicians seek to identify issues that can be "sold" to the electorate. Recall Chapter 4.

It is easier to transform a latent issue or a smaller, overt issue into a major issue on the political agenda under two conditions. The first is that the issue surface in the context of a general election campaign, particularly if the contest is thought to be a close one. The second occurs where one level of government seeks to use the issue (or can be persuaded to do so by interest groups) as a vehicle with which to engage in conflict with another level of government. Sometimes issues become "clubs" with which to both belabor another level of government as part of the long term, many-inning game of shifting responsibility to another level of government.

In the case of Ontario in 1975, rivals to the governing party committed themselves early in the campaign to some form of rent regulation, thus putting intense pressure on the Conservatives in a close-fought campaign to abandon their reluctance to introduce some form of rent control. In fact, the NDP had for several years endorsed rent controls. In effect, as it had in the past, the governing party had to be shown that the demand for action was widespread and, therefore, change which may be ideologically unpalatable was "inevitable". (See Strand 4.)

Moreover, local politicians, particularly those from Metro Toronto, were also putting pressure on the provincial government to "do something" about highly-publicized cases of rent "gouging". As well, some PC backbenchers and potential PC candidates were making public statements in favour of some sort of rent review or outright controls. See Chapters 6 and 7.

The Progressive Conservative Party first promised voters that a PC government would establish local rent review boards. These boards, however, were to use suasion rather than have the power to adjudicate rent increases. Later, after the NDP and Liberals promised stronger forms of rent control, the PCs promised amendments that would permit tenants to challenge exorbitant increases in rent in the courts and that would give the court the power to rollback excessive rent increases. See the summary of events in Figure 5-1. Less than six months before the first promise of action to control rent gouging, however, Housing Minister Donald Irvine, commenting on the government's policy towards rent controls, told the Ontario Legislature on April 15, 1975 that "this party does not support rent controls and will not support rent controls at this time or in the future because we believe supply is the answer". Like the Liberal Party which scoffed at wage and price controls during the campaign preceding the federal general election of July 8, 1975, the PCs in Ontario were to reverse direction. The Ontario Tories, however, did so during the election campaign, although the exact nature of their proposals concerning rent controls was hard to define. See Chapter 7.

Although the PCs have been neither unwilling nor slow, according to one analyst, to appropriate ideas from the NDP when it appeared to be administratively and politically advantageous,[4] NDP leader Stephen Lewis termed the PCs' ensuing rent control legislation a "surprising step" for the Conservatives. He welcomed Premier Davis' volte-face on the issue during the campaign but noted that it was done only "as a kind of anxiety, some would call it panic, that catches up with a party sensing a loss of government".[5]

As Hartle (1984, p. 7) remarks, "when voter perceptions change whether in response to a real or illusionary change in circumstances, an 'unthinkable' policy option can become not only 'possible' but finally inevitable." This was the case with the Conservative government of William Davis during the election campaign of 1975. Such policy reversals, as Hartle (1984, p. 9) points out, are "customarily greeted with derision by political observers who take them as evidence of cynical opportunism or worse." However, he continues, "it is equally plausible to view such policy about-turns as evidence of the effectiveness of interparty competition for voter support — the foundation of responsible and representative government in the face of changing circumstances and perceptions." Moreover, the Conservative Party probably would have had to change their position on rent regulation to continue to retain the confidence of the Legislature as it was returned as a minority government on September 18, 1975. Both the NDP (the new Official Opposition) and the Liberals favoured stronger forms of rent control than the Tories.

The forces and circumstances that influenced the Conservatives to abandon their previous policy position and intervene in the rental accommodation market with a form of rent control are documented in Chapters 6 and 7. The impact of the opposition parties after the election is described in Chapter 8.

2.4 Strand 4, Potentially Constraining Political Ideology

The political ideology of the governing Progressive Conservative party made its leader and most of its members reluctant to embrace rent controls. Rent controls constituted a form of government intervention that called into question the party's confidence in the efficacy of free enterprise and competitive markets. Moreover, rent controls, if they take the form of a draconian freeze on all rents for an indefinite period, can produce large capital losses for landlords. In such a case, part of the value of private property has been "expropriated", not for the benefit of the Crown, but for the benefit of the tenants at the time controls are enacted. Rent controls, even if they are not draconian, amount to a frontal challenge to the traditional rights of private property and the role of markets as the means to allocate scarce resources.

Ontario has been governed in the post war era by a succession of Progressive Conservative governments which have relied, as Robert Drummond (1983, p. 81) has pointed out, on the private sector to provide desirable levels of growth.[6] In holding that "economic freedom is the essence of competitive enterprise and competitive enterprise is the foundation of our democratic system,"[7] George Drew, leader of the PC government from 1943 to 1949, elucidated a theme that has continued to influence and shape policy to the present. At the same time, it is fair to say that the PCs have provided plenty of direct and indirect assistance to private enterprise, although the Province has also created an enormous web of government regulation -- see Priest and Wohl (1980).

Stephen Lewis has argued that the Ontario Tories do have a consistent ideology in contrast to the more "opportunistic" Liberals.

> ...in the course of 12 years I learned one important thing...for all the differences which exist between us, the Tories have been, and are, ideologically reliable. They really believe the guff they espouse. It's not just that they're beholden to their corporate friends because their corporate friends give them money. It's because they really see the world the way the corporations see the world. There is something terribly consistent about the perversity of their view, and you have to learn to respect that, because the Liberals are the most incorrigibly opportunistic bunch of people I ever laid eyes upon. Those people are beyond redemption politically. It really depresses me, the way they behave. Well, the Tories have had some moral lapses and the Tories have been caught in conflicts of interest, and done a lot of destructive things, but on balance they believe it all. What do the Liberals believe? God only knows! (Hailwood, 1975, p. 29)

This belief in the subordination of the public to the private sector and the encouragement of free enterprise as the engine of growth and progress has been tempered, however, by at least three factors: other philosophical strains in the Tory party; the emergence of a strong social democratic party; and finally the demands of maintaining power.

Other strains of Ontario Toryism have affirmed the importance of state intervention to foster the economic development of the province. Successive PC governments have used various policy instruments including public enterprise (e.g., Ontario Hydro), tax-based incentives, grants, etc. to create transportation infrastructure, provide cheap power, to provide low cost financing, to develop and distribute new technology, and to bail out failing industries. Such intervention has been aimed at assisting the private sector and thereby promoting economic development.

The political problem every PC government has faced since the emergence in 1943 of a strong social democratic party is that it cannot allow the initiative for social reforms to pass to the NDP.[8] As Norman Penner has pointed out, the party has had to be "progressive" as well as "conservative".[9] This problem became particularly acute after the 1975 election which returned the PCs as a minority government with the NDP rather than the Liberals as the official opposition. Thus it is often difficult, as Jonathan Manthorpe (1974, p. 179) suggests, to "figure out where Ontario Tory philosophy ended and NDP philosophy began...So far as the introduction of the planned economy was concerned the Conservatives were right in there with them [the NDP] and the arguments were of quality and quantity rather than the substantive question of free enterprise versus control."

The PC's free enterprise orientation has also been subject to the overwhelming desire of practical men to keep the party in power.[10] It is easy for any political party to argue that it can hardly implement its policies while in opposition. In this case, for example, the PCs appear to have believed, and perhaps they had polls on this issue, that it was necessary to promise some sort of scheme to control rent "gouging" during the 1975 election campaign. Re-elected as a minority government, the PCs would almost certainly have had to introduce controls even if they had not promised to do so during the campaign. Minority governments usually have to be more "responsive" to the demands of opposition parties. Hence, the party's longstanding policy against rent controls -- the "socialist" approach to the problem of soaring rents according to Housing Minister Donald Irvine[11] -- was abandoned. Chapter 8 makes clear, however, that not all PC backbenchers were strongly opposed to rent controls.

2.5 Strand 5, Precedents for Rent Control

Governments and opposition politicians, like most human beings, are both creatures of habit and influenced by precedent. It is easier politically and administratively to introduce a program that has been adopted elsewhere and is familiar to voters, opposition parties and bureaucrats. Moreover, it is easier, politically, to give people what they say they want than it is to educate them to want something else, which they may even agree, *ex post*, they prefer. If rents are increasing "too quickly", if some landlords are "gouging" or demanding "unconscionable" increases, it is easy to go along with the view that "there ought to be a law" to end such undesirable behaviour. It is interesting to note, however, that the Tories in Ontario, consistent with Doern and Wilson (1974), first responded to pressures to "do something" by proposing an option less coercive than that eventually adopted.

The imposition of rent regulation in Ontario was made easier by the fact that other provinces had introduced such regulation earlier and this form of intervention was well known outside Canada. By 1975 rent controls had been employed in several jurisdictions in order to ameliorate the problems associated with tight rental accommodation markets. Rent controls had recently been introduced in British Columbia (May 1974) and in PEI and Manitoba (July 1975). They had been in place in Quebec since 1951, and in 1942 Newfoundland created rent review boards. Controls had a long history in New York, Western Europe, and in England.[12] Therefore, by 1975 rent controls were not only "well known", but were favored by many voters.[13] It appears that several other instruments -- facilitating the development of new rental accommodation stock, the licensing of landlords, and suasion -- were briefly considered by the Conservatives. However, the promises of the other parties and the imposition of general wage and price controls by the federal government on October 13 before the Tories made their own legislation public, resulted in the use of regulation rather than another governing instrument.

2.6 Strand 6, Federal Wage and Price Controls

By the spring of 1975 double-digit inflation was a major issue in Canadian politics (Maslove and Swimmer, 1980, Ch. 2). Although the federal Liberals had campaigned against mandatory wage and price controls in the federal election campaign in May and June of 1974, it became clear to the Ontario government by June 1975 that the federal government's attempts to secure voluntary restraints had failed and that it was highly likely that wage and price controls might have to be imposed in the near future. Anticipating universal controls in finance minister John Turner's budget of June 23, 1975, Ontario Housing Minister Irvine softened his stance against rent controls. On June 5 he stated that if Turner's budget included wage and price controls, "rent control with a stabilization factor would be very much in order."[14]

On the evening of October 13, 1975 on national television Prime Minister Trudeau announced a sweeping program of wage and price controls to be administered by the Anti-Inflation Board (AIB). The Ontario PCs, who had been re-elected on September 18 as a minority government, had not yet introduced legislation to enact their promise of some form of rent review. In fact, the new Minister of Housing made statements suggesting that he was searching for alternatives to rent review after the election, but before legislation was introduced -- see Chapter 8.

It should be emphasized that the federal program of wage and price controls could not encompass rent controls without the assistance of the provinces because landlord-tenant relations fell exclusively within provincial constitutional jurisdiction. In short, a national program required provincial legislation to control rents. The federal government, however, did provide some suggestions as to how the provinces might implement such controls. The Minister of Finance, in a policy statement tabled in the House of Commons on October 14, 1975, stated:

> The provincial governments are being asked to undertake responsibility for implementing a program of rent control based upon the following principles: (a) increases up to a certain percentage would be permissible, (b) increases above this percentage must be justified on the basis of increased costs, (c) new structures where rents have not been established would be exempt from control for at least five years after completion of the building, in the event that rent control should be in effect for that length of time. This is to ensure an adequate incentive for construction of new rental accommodation.[15]

These principles were already in the minds of the newly-elected Conservative government in Ontario. The PCs introduced a wide-ranging program of (temporary) rent controls rather than the more limited program of rent review they had proposed in the election campaign. In doing so they argued it was all part of the national effort to reduce the rate of inflation. However, after the AIB was disbanded in 1978, rent controls in Ontario were made more elaborate. Indeed, the election campaign in 1985 showed how deeply rent controls are embedded in Ontario politics and public policy -- see Chapter 9.

Notes to Chapter 5

1. This figure is for the Toronto CMA. The fraction of tenant households in the City of Toronto, for example, is well above that for Mississauga, for example. See Campbell Sharp (1984, Exhibit 7). Nationally, a 1981 some 36.7% of all households were tenants as compared to 37.3% in 1967 (Statistics Canada, 1983, Cat. No. 13-567).

2. See "Godfrey joins growing call for rent curbs," Toronto Star, June 7, 1975, pp. A1, A2.

3. See "Rent controls needed if wages, prices frozen, Irving says," Globe and Mail, June 6, 1975; "Don't vote Tory tenants advised over rent control," Toronto Star, June 26, 1975.

4. Jonathan Manthorpe, "NDP policies not too bitter for Tory tastes," Globe and Mail, September 19, 1975, p. 7.

5. "Davis 'flip-flopped' on rent controls, Lewis says," Globe and Mail, September 9, 1975.

6. Drummond (1983, P. 81) states, "This preference for the private sector, scarcely surprising in a Conservative government, is in marked contrast to the explicit interventionism of the Lesage government in Quebec."

7. Quoted in D.O. Carrigan, (1968, p. 188).

8. In the case of rent controls, the Toronto Star reported, "At Queen's Park some Tory backbenchers are expressing concern about rental accommodation and the fact that the government is allowing the Liberal and New Democratic opposition to take the initiative in this area." See "Godfrey joins growing call for rent curbs," Toronto Star, June 7, 1975, pp. A1, A2.

9. See Norman Penner, "Ontario, the dominant province," in Robin (1978).

10. See the following useful articles on the more than four decades of Conservative rule in Ontario: Rosemary Speirs, "Brampton Bill: Always the pragmatist", Toronto Star, October 9, 1984, p. A12; Graham White, "Bill Davis, Intensely Political Style of Governing", Financial Post, October 20, 1984, p. 9; Rosemary Speirs, "Staying power", Globe and Mail, July 23, 1983, pp. 1,5; "Tory Glory", Vancouver Sun, August 4, 1983, p. A11.

11. "Lewis ridicules plan for reviewing rents in debate with Davis," Globe and Mail, September 9, 1975, pp. 1,2); "Irvine says he's seeking ways to keep down rents," Toronto Star, June 6, 1975.

12. See Staff Study, "Provincial Background" (Toronto: Commission of Inquiry into Residential Tenancies, 1983, mimeo), and Staff Study, "Rent Controls in Other Jurisdictions: United States, Great Britain, Europe, Australia, Hong Kong" (Toronto, Commission of Inquiry into Residential Tenancies, 1983, mimeo).

13. See "Rent controls: How well do they really work?" Financial Post, August 30, 1975, p. 28.

14. "Rent controls needed if wages, prices frozen, Irvine says," Globe and Mail, June 6, 1975.

15. Canada - Dept. of Finance, Attack on Inflation: A Program of National Action, (Ottawa, 1975), p. 19.

Chapter 6

THE RENT CONTROL ISSUE PRIOR TO THE ELECTION CAMPAIGN

1.0 INTRODUCTION

In this chapter we highlight the important political events that marked the period (late 1974 to mid-1975) in which rent controls first arose as an issue on the agenda -- later to become one of the most important issues in a provincial general election.

- December 1974: the City of Toronto's Executive Committee approved a proposal by the Federation of Metro Tenants' Associations (FMTA) to establish a task force to study the problems of tenants. It was composed of two aldermen, five representatives of FMTA, the Labour Council of Metro Toronto, and the confederation of Residents and Ratepayers Association.
- The 1974 annual report of the Metro Toronto Landlord and Tenant Advisory Bureau stated that rent increase cases almost doubled over the previous year. Only 35 of 4000 rent increase cases were mediated successfully.
- February 12, 1975: FMTA presents the task force with a proposal for rent controls, but only obtains the task force's approval in principle.
- After considering the FMTA brief, the Neighbours, Housing, Fire and Legislation Committee of Toronto City Council affirmed its support for rent controls.
- March 19, 20: Toronto City Council passed a rent control resolution by a vote of 12 to 8 with 2 members absent. The draft bylaw proposed a five-member tribunal to review rents. Existing rents would be rolled back to June 1, 1974 levels and increases were to be held to 5% per year. Landlords would have to justify larger increases before the tribunal. The City could not put its plan into effect without a provincial amendment.
- March 26: As the request of the Toronto City Council, the NDP introduces a private member's bill, An Act to Provide for Rent Control and Security of Tenure, in the Ontario Legislature. The bill would allow rent increases of 5% per year and require landlords to justify larger increases before a tribunal. [The Bill requires the provincial government to amend the City of Toronto Act so that the City may impose local rent controls. The Minister of Housing opposes the amendment.]
- April 15: Ontario Minister of Housing Donald Irvine states that the Conservative Party "does not support rent controls and will not support rent controls at this time or in the future because we believe supply is the answer." He makes a similar statement a week later.
- April 30: A bill proposed by the Toronto City Council outlawing most adults-only restrictions by landlords was approved by the Private Bills Committee of the provincial Legislature.

- May 14: Both landlord and tenant groups appear before the Private Members Bills Committee to testify on the City of Toronto's request to be able to impose local rent controls. The Bill is publicly opposed by the Deputy Minister of Housing who said rents in Metro Toronto were "a bargain." Property owners mount a strong lobbying campaign against rent controls including the use of advocacy advertisements during the Committee hearings which are held over several weeks.

- June 5: Ontario Housing Minister Irvine states that if the federal budget to be announced in two weeks includes wage and price controls, "rent control with a stabilization factor would be very much in order."

- June 6: Before the Private Bills Committee the 23 Liberal MPPs propose local rent review tribunals with the power to impose a settlement on disputes over rent increases.

- June 6: NDP Leader Stephen Lewis proposes strict rent controls to protect tenants along the lines of the scheme put in place in British Columbia by the NDP in May 1974.

- June 6: Metro Council chairman Paul Godfrey proposes to licence landlords locally and to remove licences for rent gouging. Other Progressive Conservative MPPs or PC candidates are quoted in the newspapers as favoring some form of rent control.

- June: Both the Toronto Star and the Globe and Mail publish editorials opposing the introduction of rent controls.

- June 25: Ontario Housing Minister Irvine rejects the City of Toronto's request for the power to impose rent controls.

- July 18: The provincial Legislature is recessed. An election is expected later in the summer or in the fall.

- July 30: The Ontario Cabinet announced plans to set up rent review boards in cities with a serious shortage of rental accommodation where the local government requested such a board. The Cabinet also announced that tenants security of tenure would be strengthened by amendments to the Landlord and Tenant Act, also in the fall of 1975. The Minister of Housing stated that he continued to oppose rent control. The PC's proposal is widely criticized as inadequate, although the Toronto Star agreed with the rejection of rent controls.

During the winter of 1974-75 vacancy rates in Ontario and particularly Metro Toronto were said to have reached their lowest level in years[1] (see Table 5-2 in Chapter 5). Apartment starts had been falling for several years -- see Stanbury and Vertinsky (1985, ch. 6). Reports of dramatic rent increases began to appear more frequently in the media during the spring of 1975.[2] Many of these reports documented cases of old-page pensioners, single mothers and people on fixed incomes facing rent increases of up to 120% and being quickly forced from their homes due to their inability to pay. According to one CMHC analyst, rents in Metro Toronto were expected to rise by at least 15% in 1975.[3]

According to the annual report of the Metro Landlord and Tenant Advisory Bureau, which was released in April 1975, the number of cases involving large rent increases almost doubled over the previous year. The Bureau was established under provincial legislation that allows municipalities to set up advisory bodies to act as mediators in landlord-tenant disputes. The head of the Bureau stated that only 35 out of 4,000 rent increase cases handled in 1974 were mediated successfully.[4]

2.0 THE CITY OF TORONTO'S RESPONSE TO THE RENT INCREASES

In an action that gave tenants in Toronto an accessible forum in which to air their grievances, the City of Toronto Executive Committee approved a proposal by the Federation of Metro Tenants' Associations (FMTA) to establish a task force to study the problems facing tenants late in 1974.[5] (FMTA was established in 1972. In 1984 it estimated that its associations represented 30,000 to 40,000 tenants.) The seven member task force was composed of two aldermen (Dorothy Thomas and Allan Sparrow) and five representatives from the FMTA, the Labour Council of Metropolitan Toronto and the Confederation of Residents and Ratepayers Association (CORRA). The Task Force began work in January 1975 and on February 12 was presented with the FMTA's proposals concerning rent controls. The FMTA pressed the Task Force to endorse the proposals before forwarding them to the Neighbours, Housing, Fire and Legislation Committee of Toronto City Council for its consideration. Divided on the question of support for the document, the Task Force concluded that it could only endorse the concept of rent control in principle, refraining from supporting any specific set of proposals without further study.[6]

Nevertheless, the apparent urgency of the problem of excessive rent increases moved the Task Force to affirm its support of the FMTA's plans to lobby the provincial government directly to implement rent controls.

After considering the FMTA brief, the Neighbours, Housing, Fire and Legislation Committee affirmed its support for rent controls. Consequently, the City Solicitor was requested to prepare draft legislation for consideration of the Toronto City Council. In a memo the Solicitor advised the Council that it would be advantageous to have the bill come before the Private Bills Committee of the Legislature because "at that time appropriate people will be called to give evidence."[7] This course of action would also allow the City time to develop the appropriate administrative detail necessary if the proposed legislation was enacted.

Toronto City Council passed the rent control resolution, 12 to 8 with two absent, at its meetings of March 19 and 20, 1975. The by-law proposed a five-member tribunal, appointed by Council, to review rents. Existing rents were to be rolled back to June 1, 1974 levels, and increases held to 5% a year. If a greater increase was sought by a landlord and disputed by a tenant the tribunal would hear evidence and determine whether the increase was justified. The City, however, could not act on its draft by-law unless the province amended the City of Toronto Act.[8]

The City's rent controls proposal was conceived chiefly by Alderman Dorothy Thomas and presented to the City Council by the so-called Reform Council, six members who represented largely lower income and working class areas of the city. However, the growing public demand for rent controls was not confined to these areas. According to Alderman Anne Johnston, who represented wealthy north-end Ward 11, "rising rents are the most common complaint I hear these days, wherever I go."[9] Executive Alderman William Kilbourn had the same experience -- "Tenants' rights and rent controls have become in the past year by far the biggest grassroots concern in the city -- and if Queen's Park [the provincial Legislature] does not know it, they're even more out of touch than ever."[10]

2.1 Provincial Reaction to the Toronto Proposal

Less than a month after Toronto City Council passed the rent control resolution, a private member's bill was drafted and placed before the Ontario Legislature on April 14. 1975. An Act respecting the City of Toronto -- Bill Pr33 -- was introduced for first reading by Thomas Wardle, the Progressive Conservative representative of the Beaches-Woodbine riding in Toronto. Although the City Council's bid for the power to control rents was endorsed by tenants' groups and others such as the Labour Council of Metro Toronto,[11] provincial Housing Minister Donald Irvine reacted to the idea by stating that he was firmly opposed to letting municipalities establish rent review boards. When asked by Ian Deans (NDP-Wentworth) in the Legislature on April 22 whether he would permit a municipality to establish a rent review procedure even on a trial basis, Irvine replied, "I am absolutely not prepared to allow a municipality to do this...".[12]

The Minister's reply sparked an argument with NDP Leader Stephen Lewis who accused Irvine of "selective discrimination". Irvine had said that his office would accept telephone or written complaints about rent increases and would periodically review the general rent situation, but added, "I am certainly not going to investigate every person who feels that he has a rent increase which is not justified."[13] Lewis responded, "What right do you think you have as a minister to impose such selective discrimination on the renters of Ontario by allowing a chosen few, who happen to reach their MPPs, to put illegitimate rent increases before you for review, but deny all others who don't have the right to a similar review?...You are discriminating in this case. You allow yourself to review, but no one else to review," he continued.[14]

James Breithaupt (Liberal-Kitchener) also asked the Minister to reconsider his opposition to rent review boards because of the large number of complaints about rent increases received by the Metro Landlord and Tenant Advisory Bureau and other similar organizations in other communities.[15]

In response to the rising tide of concern over the issue of excessive rent increases, aldermen from the city and the boroughs of Metro Toronto continued to press for rent control. At their annual conference on April 20 they reiterated their demand for a rent board with the power to arbitrate rent increases in order to defend low-income tenants against high rent increases.[16]

2.2 The Issue Heats Up

Many landlords had taken advantage of the tighter rental market to enforce "no pets" and "no children" restrictions on tenants in an effort to cut their maintenance bills. This trend threatened to split tenants as a group. Nevertheless, media reports about the extermination of pets and about homeless families with small children -- the victims of landlord "purges" -- elicited a strong response from the public. Consequently, the Toronto City Council passed a motion condemning adults-only restrictions as discrimination. On April 30, 1975 it won the approval of the Private Bills Committee of the Ontario Legislature for a bill outlawing most adults-only restrictions.[17]

The Canadian Civil Liberties Association became involved in the rent controls issue after the Ontario Supreme Court ruled in March that a landlord was not compelled to give reasons for refusing to renew a lease. Following the refusal of a Metro landlord to renew the lease of a tenant who was president of a tenants' group, the Association's general counsel, Alan Borovoy, wrote Ontario Attorney-General John Clement.[18] In his letter, Borovoy stated that "According to the Ontario Supreme Court, a landlord is legally free to punish a tenant for his tenant activities by refusing to renew or to enter into a lease with him."[19] (The evolution of tenants' security of tenure provisions in Ontario is described in Stanbury, 1985a.)

On May 6 Stephen Lewis used an article critical of Metro's housing situation by Jim Gillies, the federal Conservative MP for Don Valley, to back NDP demands for rent controls. Lewis quoted from the article in the May edition of the PC Metro Times in which Gillies stated that Metro's apartment vacancy rate was down to almost 1% "when, in fact, under normal conditions it would be almost 5%...This is a scandalous situation." However, when Lewis asked the Housing Minister if he would reconsider his opposition to rent review or rent controls, Irving told Lewis that while the article by Gillies "may be his personal opinion, I don't necessarily agree with that."[20]

2.3 Introduction of Toronto's Bill to the Private Bills Committee

The Toronto City Council rent control proposal -- Bill Pr 33 -- was first debated by the Private Bills Committee on May 14, 1975. On that day both landlord and tenant groups were in attendance to present their side of the rent control argument.[21] Representatives from the City of Toronto included the Mayor David Crombie, Aldermen Dorothy Thomas and Colin Vaughan, and Anu Bose, the co-ordinator for the Task Force on the Status of Tenants -- as well as representatives from the FMTA, Parkdale Tenants Association, Downtown Action, Tenants Hotline, Neighbourhood Legal Services and individual tenants' groups. All spoke on behalf of the bill. Opposing the bill were deputations on behalf of the Board of Trade and the Urban Development Institute (UDI).[22]

The Globe and Mail reported that "the city's attempt was probably headed off by Deputy Minister of Housing Michael Warren, who told the committee [that] rent controls have not worked in the past." He also stated that "there is no question controls drive private builders out of the market and leave government with the responsibility for providing housing...".[23] He commented that it would be unfair to control the price of one commodity such as housing unless food and oil prices and wages were also controlled. In his view, rents in Metro before 1973 were "a bargain" and current increases result from landlords facing the "economic reality" of increasing costs and inflation.

Norman Brody, spokesman for the Federation of Metro Tenants' Associations, attacked Warren's suggestion that rents had been a relative bargain over the past five years. "Toronto is rapidly becoming a city where low- and middle-income families cannot afford to live", Brody told the committee.[24]

Patrick Lawlor (NDP, Lakeshore) argued that members of the legislature were being "driven mad" by complaints from tenants facing "price gouging" by landlords. James Renwick (NDP, Riverdale) stated that "more and more low-income people are paying a higher and higher percentage of their income for rent". However, he was not certain that rent controls were the answer. Margaret Campbell (Liberal, St. George) charged that maintenance standards were declining despite rent increases.[25]

Peter Farlinger, representing the Urban Development Institute, stated that the solution to the problem lay in more housing farther from the city, coupled with better public transit. When Farlinger commented that there was "scarcely a municipal jurisdiction in this province" that was encouraging more housing starts, Warren reportedly thumped his desk in agreement.[26]

On May 16 representatives of the FMTA met with Housing Minister Donald Irvine, representives of the Ontario Housing Corporation and the Attorney General's department.[27] The FMTA sought to persuade the government to enact rent controls, legislation to give tenants greater security, and a landlord-tenant tribunal that would require landlords to justify evictions. It also lobbied for rent subsidies for low-income people. After the meeting, at a press conference, FMTA president Alvin Faught announced that the Assocation would promote tenant issues during the next provincial election. The group planned to distribute pamphlets during the election, press candidates to discuss housing problems and urge the support of candidates responsive to its cause. Tenants' organizations are "just starting to come out of the woodwork," he said. He commented, "I know the building industry can do enough in a year. It is just a matter of getting started on supply."[28]

Anu Bose, co-ordinator of the city's Task Force on the Status of Tenants, stated that the number of evictions in Toronto was reaching crisis proportions and complained of tenants' inability to protest "rent gouges". Bose said approximately 60 per cent of the city's residents were tenants and that low- and moderate-income families were facing uncontrolled rent increases and evictions.[29]

On May 21, the Private Bills Committee was told by Frank Drea (PC-Scarborough) that a rent control proposal "could pass the committee in half an hour a year from now" if nothing was done to increase the supply of rental housing.[30] Drea, who said he was definitely opposed to rent controls, agreed with Phil Givens (Lib.-York-Forest Hill and a former Mayor of Toronto) that "tenants are calling all the time, with rent increase of 30% or more. What can I tell them?" Givens commented, "We have to give the people some satisfaction ...New York, Vancouver, and other cities faced the same problem...introduced rent controls hoping to work out inequities later". Drea said later that the Committee's investigation into rent stabilization policies had turned into a warning to industry to build more housing "or take the consequences."

The main public source of opposition to rent controls in the government continued to be the Housing Minister, Donald Irvine -- but he was weakening. As late as April 22 he had stated that "this government will not, as far as I'm concerned, subject the people to rent controls which will not work, or to a rent review board which has the same authority as rent controls".[31] However, growing pressure from not only both opposition parties but also Tory backbenchers, tenant groups, and individual tenants began to alter Irvine's stance slightly. On June 5, the Minister stated that, while the Ontario government still felt that an adequate supply of housing was the real answer to rising rents, if the federal government were to impose wage and price controls in its June 23, 1975 budget, then stabilization of rents by the provinces would be in order too. NDP Leader Stephen Lewis said that he welcomed this suggestion that Irvine had "shifted the ground...from a position of absolutely total resistance to the prospect of rent control to at least an appraisal of some kind of rent mechanism if supply does not increase..." Irvine replied that he had "never closed any alternatives. I have always said I was open to something else that will work and that's what I'm trying to find." The Minister stated that, while there was not a definite proposal before the Cabinet at that point, he hoped that by the end of June he could offer the Cabinet a half-dozen alternatives for dealing with excessive rent increases. "We are daily analyzing the situation in Ontario to determine what is the best alternative if we have to have an alternative to supply," he told the Legislature.[32]

The Minister repeated, however, that he would not accept the City of Toronto's private member's bill which would give that city rent control powers. Mayor David Crombie suggested a compromise that would peg rent increases to rises in the Consumer Price Index (CPI) and allow tenants facing increases above that amount to appeal to a review tribunal. (The CPI rose by 10.9% in 1974 and 10.8% in 1975.) Labelling his proposal "rent stabilization", Crombie stated that the plan was designed to deal with "excessive and unjustified rent increases".[33]

Crombie's compromise proposal, however, was critized by the UDI. "The cost of running a residential building bears no relationship to the Consumer Price Index,"[34] said the developers' spokesman, Peter Farlinger. "The costs that count are natural gas -- which could go up 50% soon -- electricity rate increases of 25%, constantly increasing wages and municipal taxes."[35] (Between 1971 and 1975 certain of landlords' costs rose as follows: fuel and utilities, 47%; owner repairs, 46%; insurance, 113%. In 1975 property taxes rose by 15% -- see Ministry of Consumer and Commercial Relations, 1978.)

During the Committee hearings, according to the Globe and Mail, developers mounted a strong lobby against the non-market determination of what rent they could charge.[36] One of the more controversial elements of the UDI's effort was a quarter-page advocacy advertisement which was run on May 15 in the Toronto Star (p. A10). Under the caption "If rent controls fix your rent, who'll fix your building?", a picture of a dilapidated old apartment building focused attention on the UDI's argument that under rent controls many neighbourhoods in Toronto would become slums. The text of the ad was as follows:

> Rent controls, or review boards, will keep your rent from going up. But, they won't keep your building from going downhill.
>
> It's simple economics. Rent controls will hold down the building's income, but not its maintenance costs. As the prices of labour and materials rise with inflation, maintenance costs will go up. Ditto hydro, heating, water costs and taxes. And there's the dilemma. Your landlord won't be able to fix the building, because costs will outstrip his income. Result: Your apartment will go to pot.
>
> In New York, where rent controls have been tried, quality neighborhoods have been turned into slums as buildings deteriorated. In neighborhoods that didn't go to rack and ruin, New York saw a black market created where tenants bartered apartments and leases for large sums of money.
>
> Rent controls have another negative effect. They end apartment construction, because the incentive to build is eliminated. In a city that is growing as rapidly as Toronto, the results would be disastrous. We'd have our own black market overnight; and the people who couldn't afford that game could easily end up on the welfare rolls. It sounds incredible, but it's a matter of history in New York.
>
> And in Vancouver, even in the short time they've had rent controls, the tragic effects are already starting to show.
>
> The answers lie in encouraging new construction and free competition. The laws of supply and demand will exert natural controls. And people on low and fixed incomes can be helped with more low-income housing and rent supplements.

> The Urban Development Institute includes the builders and managers of most of Toronto's better apartments. We have a strong obligation to the people who rent with us, our employees and our shareholders. We care about your city. Because we live here too.
>
> We're convinced rent controls won't work. We hope it won't take a slum to convince you.

NDP leader Stephen Lewis called the advertising "irresponsible and false",[37] and charged that Toronto's major apartment owners with using misleading advertising as part of a propaganda campaign against rent controls. He also suggested that the UDI and the Tory government may have been in communication before the ad was published. According to Lewis, the "'natural controls' referred to in the ad were "making life impossible and unbearable for many families in Toronto". Rent increases in Metro in the past year, he said, had ranged between 25% and 35% compared to 12 to 15% in 1974. [Recall the data provided in Chapter 5.] The NDP leader labelled the government's refusal to help renters "a deliberate assault on the tenants of Ontario".[38]

2.4 The Opposition Parties' Proposals

The Liberal Party's version of a rent review tribunal was proposed by Margaret Campbell (St. George). Under her plan, every municipality of 50,000 or more would set up a rent review board which could subpoena witnesses, books, and records of landlords and render final decisions on complaints from aggrieved tenants. This plan had been adopted unanimously by the other 22 Liberal members of the Legislature.[39] The Liberal plan was introduced as a Private Member's bill and received first reading on April 7, 1975. Bill 27, An Act to Amend the Landlord and Tenant Act, as expected, died on the order paper.

NDP Leader Stephen Lewis argued for strict controls to protect tenants and stated that while the NDP favoured the City of Toronto proposal, the party would endorse a scheme similar to that operating in British Columbia, where the NDP government set an allowable increase based on a reasonable return on investment, maintenance costs, and interest rates.[40] On March 26, 1975 NDP member Michael Cassidy had introduced a Private Member's Bill that embodied the major principle endorsed by the NDP with regard to rent control. Bill 26 -- An Act to Provide for Rent Control and Security of Tenure -- proposed that rent increases should be based only on increases in costs and not on scarcity or speculative factors. The bill proposed to establish a rent review board empowered to examine the books of landlords and to impose maximum increases in rent in the case of disputes. Bill 26 also would have strengthened tenants' rights with regard to security of tenure. However, as in the case of the Liberal bill, the NDP's proposals did not move beyond first reading.

In the Legislature on June 6, NDP leader Stephen Lewis asked the Housing Minister how he should reply to a telegram received the day before from an organization called "Pensioners Concerned." The telegram read as follows:

> Seniors on fixed incomes shocked, frightened. Rents up $40 to $60, old age security increase insignificant. Hundreds of elderly forced on GAINS needing subsidized housing by 1976, 1,600 waiting now. Where can we go, what can we do?[41]

In response, Mr. Irvine defended the Government's record stating that seniors citizens in Ontario were the "best housed" in Canada. According to the Minister, the Province planned to build 8,000 more housing units for seniors if the federal government would agree to give Ontario more money.[42]

The Minister also criticized a story which appeared in early editions of the Toronto Star on June 5 entitled "Some landlords gouging -- move underway at Queen's Park to limit rents". Calling the headline misleading, he said, "I don't want to have a situation whereby we have landlords immediately going out tomorrow raising rents, or tenants being forced out of their particular accommodation."[43]

2.5 Action by Metro Toronto Government

The next day, June 6, Metro Council chairman Paul Godfrey (an appointed official) outlined his proposals for limiting rent increases by "some landlords who are gouging their tenants". His plan entailed setting up a licensing system[44] for landlords with "some mechanism so that gougers can be exposed." He suggested that a tribunal be set up by the provincial government to review charges of gouging. Landlords found guilty would lose their license to rent accommodation. A commissioner with the tribunal would be empowered to investigate complaints about rent increases. If he (or she) thought the complaint was justified he (she) would refer it to the tribunal, which would be composed of two citizens and one landlord not involved in the case.[45]

Godfrey was among a growing number of prominent Metro Conservatives, including David Crombie, North York Mayor Mel Lastman, and North York Controller Barbara Greene, who, according to the Toronto Star were "intensifying" their demands for quick government action on the issue.[46] Lastman, who planned to seek the Conservative nomination in the Toronto riding of Armourdale, had not only been a long-standing proponent of rent controls, but had made it clear that the issue was his highest priority in entering provincial politics. He favoured a system which would allow rents to rise only as high as increases in the overall cost of living. He described some landlords as "high-rise bandits" who were only interested in gouging.

Miss Greene stated at the time that high rent increases were "the most pressing issue in Metro Toronto today". In support of Mayor Crombie's "rent stabilization" plan, she had urged the provincial government to act immediately to protect tenants. Nominated as the Conservative candidate in the riding of Downsview, she specifically mentioned her concern about rents to Premier Davis before agreeing to run. In reply, the Premier assured her that the Conservative Party allowed enough flexibility to embrace her views.

At Queen's Park, Tory backbenchers expressed concern about rental accommodation and the fact that the government was allowing the opposition parties to take the initiative on the issue. "If it's a serious case of rent gouging, there should be some place people could go to complain," George Nixon (Davenport) suggested.[47] He also thought that David Crombie's plan might work. According to the Globe and Mail, all parties which held seats in Metro Toronto were under public pressure to do something about high rent increases, "although few believe in rent control".[48] (As Table 5-6 in Chapter 5 indicates, Metro Toronto would have accounted for 29 seats out of a total of 125 in the provincial Legislature in the 1975 election.)

As the issue gained momentum, the interest by the news media also grew. Both the Globe and Mail[49] and the Toronto Star[50] took an editorial position against rent controls. However, stories of tenants faced with high rent increases, excellent "human interest" stories, also appeared in their pages. In the Legislature, the Tories attributed high rent increases to a housing shortage, a problem they blamed on the federal Liberals. Tempers flared when Housing Minister Irvine's parliamentary assistant, Margaret Scrivener, told a group in Ottawa that provincial Liberal leader Robert Nixon hoped "the inconvenience and anxiety created by the housing shortage...will add to his vote in the coming election campaign."[51] Later she stated that the federal government was cutting back housing funds to Ontario, "supported by their lackeys at Queen's Park", in order to embarrass the Conservative provincial government.

While the government studied the problem in June (Irvine said on June 13 that he was preparing a submission to Cabinet),[52] both the Urban Development Institute, an organization of Metro's major apartment owners, and the Federation of Metro Tenants' Associations lobbied members of the Metro Toronto Council. Both groups circulated briefs indicating their position among Council members.

However, on June 20 the Council rejected a motion by Scarborough Mayor Paul Cosgrove to re-open discussion on rent control in order to give both apartment owners and tenants a chance to present their positions to the Council. In rejecting the motion the Council re-affirmed its call for a single rent review board in Metro Toronto. The Council's position was stronger than that taken on May 6 when the province was asked to enact legislation allowing municipalities to create rent review boards. According to North York Mayor Mel Lastman, the UDI's attempt to address the Metro Council Management Subcommittee was "just a delaying tactic".[53] Lastman said the Institute was "running scared" with landlords gouging tenants, and that the Metro Council would weaken its demand for a rent review system if the matter were re-opened for discussion.

"There's no point in backing down now," said Toronto alderman Arthur Eggleton. "Irvine has announced he is looking at some kind of rent review to control the rent gouging we are experiencing...if we back down Irvine will shelve any action".[54] East York Alderman Howard Chandler stated that some action had to be taken soon against the "almost criminal rents being charged by some landlords, not all of whom belong to the UDI".[55]

2.6 Amending the Private Member's Bill

On June 25, 1975 Housing Minister Irvine formally turned down the City of Toronto's request for the power to impose local rent controls. He also dismissed Mayor Crombie's compromise suggestion of tying rents to the Consumer Price Index. On the same day, the Tory members of the Private Bills Committee (which had been debating the issue almost weekly since May 14) voted solidly against opposition members to eliminate the vital sections of the bill dealing with organization of the rent control commission and with the imposition of rent controls. Thus, when the Committee reported to the Legislature, Bill Pr33 appeared in an emasculated form. Mr. Irvine told the Committee that it would be a "disaster" to deal with Toronto as an isolated part of the Metropolitan Toronto area. "We can't deal in isolation with the City of Toronto," he said.[56]

Irvine, in stating that "at this time I'm ruling out rent controls of any kind", ended any immediate chance of rent controls. He did not, however, rule out provincial action on rent review later. "We are not closing any doors. We are continuing to assess the situation and we may introduce some form of rent review at a future date." The Minister of Housing stated that he was considering setting up a province-wide rent review board and introducing amendments to the Landlord and Tenant Act.[57] But, he added, both these actions would have to be carefully considered by the Cabinet before any action was taken.

Mayor David Crombie called the Premier's office before making his final submission to the Private Bills Committee. He told the Committee that although he opposed some provisions of the bill, it was "better than leaving us with nothing...the city could not afford to have its citizens face the kind of rent increases that occurred over the last year." Citing Central [Canada] Mortgage and Housing Corporation (CMHC) figures for the 10 months ending in April 1975, the mayor said rents had jumped 36.7% for three bedroom apartments, 29.8% for two-bedroom apartments, 20.7% for one-bedroom units, and 13.2% for bachelor suites.[58] (For more detail, see Table 5-3 in Chapter 5.) Later, after the bill was defeated in committee, Crombie commented, "We weren't surprised," and stated that the City would try again next year if the provincial government took no action on the issue in the interim.[59]

The Federation of Metro Tenants' Associations reacted to the government's rejection of Bill Pr 33 by advising tenants to vote against the Conservatives in the next provincial election expected within the year. Susan Teskey, an organizer for the Federation which included about 50 tenant groups with more than 100,000 members, commented, "We're not telling people who to vote for. But if they're voting as tenants, they shouldn't be voting Tory."[60] She predicted that the government would announce some kind of program before the next election. She said Conservative backbenchers were feeling the pressure from tenants in their ridings and were fearful of a tenant vote against them. (See Table 5-1 in Chapter 5.)

On June 25, 1975, North York Mayor Mel Lastman won the Progressive Conservative nomination in the provincial riding of Armourdale. He repeated his longstanding demand that the Province bring in rent controls to curb "unconscionable rent increases by unscrupulous landlords". He pledged that if elected, he would resign after one term if he failed to persuade the government to enact rent controls. He also promised to be "very, very persistent" in putting forward his views. "I believe we need legislation that will permit rent increases only if they are justified by way of a reasonable return on investment," he said.[61]

By the third week in July, the Minister of Housing apparently had prepared a submission for the Cabinet which was considered at the regular cabinet meeting held on July 23, 1975. At that meeting the Cabinet appeared to have been split as it "failed again to reach a decision on the issue of rent controls and a rental review board." After the lengthy meeting, Mr. Irvine stated that his staff would put together more information for discussion at two cabinet meetings to be held the following week. "When you have a subject as controversial as this one, the cabinet is going to take as much time as it needs," he said. He added, "The position of the ministry will be before cabinet again next week, as it was today".[62]

There is evidence to suggest the various interests involved in the issue continued to lobby the government. For example, E. Lee Hoppe, president of the Ontario Real Estate Association, wrote Irvine to encourage the Housing Minister to resist the imposition of rent controls:

> Singling out a particular class of people--those who own rental property, rather than some kind of investment--for so basic a denial of civil rights, cannot be justified...Rather than hauling landlords before rent control or rent review tribunals and forcing them to disclose confidential business information...the 23,000 member association would like to see the government increase its commitments to providing serviced residential and industrial land.[63]

3.0 THE TORIES' FIRST MOVE ON RENT REGULATION

After its meeting on July 30, 1975, the Ontario Cabinet announced plans to set up rent review boards in Metro Toronto and other cities with a serious shortage of rental accommodation. According to the Housing Minister, the boards, which were to be set up only in municipalities that asked for them, would investigate tenants' complaints of unreasonable rent increases and try, through publicity, to "shame" landlords into setting reasonable rents. The boards would have the power to subpoena records from landlords to justify rent increases. The legislation establishing the boards was to be introduced in the fall and passed by mid-November.[64]

The government also planned to introduce a tenant protection package aimed at improving security of tenure.[65] Amendments to the Landlord and Tenant Act planned for the fall would (i) give tenants the option of a minimum one-year lease in buildings with six or more self-contained units and a minimum lease of three months for a building with fewer than six units; (ii) require landlords to renew leases if the tenants want to stay on, "unless the landlord can show just cause for non-renewal"; (iii) require landlords to give at least two months' notice of any rent increase and reasons for the increase; and (iv) require at least three months' notice of refusal to renew a lease of one or more years with reasons for the refusal.[66]

The government also offered to pay up to one-half of the cost of operating municipal landlord and tenant advisory bureaux, such as the one in Metro Toronto. (The bureaux are intended to mediate disputes between landlords and tenants, but have no power to make landlords justify rent increases.)

At the press conference, Housing Minister Irvine stated that he was still opposed to rent controls. "It's wrong to try to force landlords to rollback rents because that would only lead to the withdrawal of private developers from the rental market...if we publicize the gougers enough, we can shame them into rolling back their rents. Publicity can help." The Minister was willing to set up rent review boards in any area with a vacancy rate of 3.5% or less, but he felt that boards should be abolished if vacancy rates increased because tenants would have a choice of either paying higher rent or of moving. According to the Minister, rent increases in Toronto were averaging about 15% and 11% provincially, about the same rate as inflation. (See Tables 5-3 and 5-5 in Chapter 5.) He said he "would be very surprised" if his announcement of the rent review boards led to any increase in rents.

3.1 Reaction to the Government's Proposl

The opposition parties criticized the government's proposal as a gimmick designed to fool the public into thinking that something was being done about gouging by landlords. Both Liberal and New Democratic Party MPPs argued that without the power to veto rent increases or roll back rents, the proposed boards would have a minimal effect. Liberal leader Robert Nixon described the plan as "electioneering". He said the Minister's "proposal is inadequate and seriously late...It's inadequate because the boards have no rollback power nor the power to recommend rollbacks. It's late because we should have had a chance to debate it in the Legislature."[67] (The legislature had recessed for the summer on July 18, some 12 days earlier.) Ian Deans, (Wentworth) NDP house leader, described the plan as "a sham...it leaves the view or hope that something will be done and that's rotten. They're trying to put a public face on it."

Toronto Mayor David Crombie was also critical: the scheme "would simply not deal with the problem of unjustified rent increases...someone who is going to gouge on rent won't be swayed by moral persuasion or publicity. If rents are unjustified, then a board should have the power to stop them."[68] Crombie, who had appeared six times before the Private Bills Committee of the Legislature which studied the Toronto proposals to limit rent increases, said

> I spent all that time at Queen's Park and didn't receive a letter or a call that this is what they decided to do...All we can do is hope that this is just a first step and the province will give the rent review boards some power as the next step. This question of going into a landlord's books and publicizing his unjustified rent means nothing to a woman of 65 on a fixed income. She is more concerned about her rent not going up beyond her means.[69]

Toronto alderman Dorothy Thomas, who wrote the city's basic policy on rent control and sat on the City's Task Force on the Status of Tenants, said Housing Minister Irvine "is the prize dummy of all time--he's going to infuriate tenants with this crap".[70]

Mayors of some of Metro's other municipalities generally agreed with Crombie and Thomas. York's Mayor Philip White stated that "the proposal is ultimately ineffectual and looks like window dressing related to the next provincial election...I don't think it is very effective to use the tactic of holding landlords up to shame. They'll become insensitive or calloused to it."[71] North York mayor Mel Lastman said that rent review was a beginning, but that it did not go far enough to protect tenants. "They'll just be a listening centre where people go to cry. They'll hand you a towel and you'll walk out with a wet towel."[72] He said he would like to see a rent control system that provided for some rent escalation as other costs go up.

Metro Chairman Paul Godfrey supported the Housing Minister's proposal, but suggested that the government go further by licencing landlords "the way the Liquor Licence Board of Ontario handles taverns...Where there is evidence of extreme gouging, the threat of losing one's license would be power enough to keep people in line...you could put them out of business."[73] Godfrey opposed rent controls as being unworkable without wage and price controls. "I think rent controls have failed everywhere," he stated.

Spokesmen for tenant associations stated that Mr. Irvine should have given the boards power to rollback rent increases. According to Alvin Faught, chairman of the Federation of Metro Tenants' Associations, it was foolish to believe a landlord would not raise rents because a review board could inspect and make public his records. Sam Wagman, president of the North York Homeowners' and Tenants' Association and vice-president of the Rent Control Association of Metro Toronto, believed that rent review boards were a good alternative to rent controls. But "it's a cover-up unless the boards are given the power to actually punish a landlord for gouging people," he added.[74]

Developers, on the other hand, reacted in a generally favourable manner to the Ontario government's announcement of July 30th. Robert Strom, president of the apartment group of the Urban Development Institute, which represented landlords of 70,000 units in Metro Toronto, said rent review boards would improve communications between tenants and landlords. Keith Morley, president of Richard Costain (Canada) Ltd. of Toronto, said, "I think it's possibly the best thing they could have done...if the truth were known, in 99% of cases, the rent increases are legitimate".[75] He added that it was fortunate the government did not implement a system of rent controls. His company had been losing money on its portfolio of rental apartments, although he admitted owners with older properties "could be making a lot of money. Commenting on the effectiveness of the proposal, Morley said, "while not totally effective, it will act to keep some control on rent increases".[76]

The president of Heathcliffe Developments, Herbert Stricker, predicted that the rent review boards would show that landlords were not gouging tenants: "This kind of review board will begin to show what the true picture is. A lot of people will be surprised to find rents are not keeping up with costs".[77] One developer, the president of Goldlist Construction Company Ltd. of Toronto, said he did not like the idea of rent review. "The development industry shouldn't be singled out for control. If it is, there should be control on everything." He suggested the rent review mechanism might force his company to reconsider several rental projects in the planning stages.[78]

Media reaction to the government's proposal was generally positive. While lamenting the fact that it took the Housing Minister "so long to get such an apparently simple proposal through cabinet," the Toronto Star agreed with the Minister's rejection of rent controls,[79] as did the Globe and Mail.[80] However, letters to the editor of both newspapers uniformly condemned the proposals as "half-way", "meaningless", and "futile and idiotic". The letters referred to cases where landlords reacted to the government's proposal by "gouging more quickly" in fear of future rent control legislation.[81]

The stage was set for the Premier to call a general election which he did in less than two weeks. If the Government believed that its promise to establish local rent review boards would diffuse the political pressure to bring in more stringent rent controls, it was sadly mistaken as the next chapter makes clear.

Notes to Chapter 6

1. According to Kenneth Holder, an appraiser for the Toronto branch of the CMHC, the vacancy rate in Metro Toronto during December 1974 was less than 1%. See "Metro rents may rise 15% analyst says", Toronto Star, May 14, 1975.

2. See "A growing trend in Metro rentals has lawmakers, tenants alarmed," Toronto Star, May 10, 1975; "Pensioners rent up $215 - alderman calls it 'gouging'", Toronto Star, May 5, 1975; "Seniors hit by 23-59% Metro rent rises", Toronto Star, May 6, 1975.

3. See "Metro rents may rise 15% analyst says", Toronto Star, May 14, 1975.

4. "Rent complaints swamp bureau director reports", Toronto Star, April 22, 1975; "Irvine opposes municipal rent controls", Toronto Star, April 23, 1975.

5. See Report of the City of Toronto Task Force on the Status of Tenants (Toronto: September 1975), Chapter 1.

6. Ibid., p. 28.

7. The memo was entitled "Draft Legislation on Rent Control."

8. "Rent Controls: City wants them, province doesn't and tenants' complaints are rising", Toronto Star, April 26, 1975.

9. Ibid.

10. Ibid.

11. "Rent Controls Endorsed", Toronto Star, May 2, 1975.

12. Ontario Legislature, Debates, April 22, 1975, p. 1088.

13. Quoted in "Irvine opposes municipal rent controls", Toronto Star, April 23, 1975.

14. Ibid.

15. Ibid.

16. See "Needy are losers in rent control game" (editorial), Toronto Star, April 22, 1975.

17. The City bill which carried a maximum fine of $1000 then went for final reading before the Legislature in the Fall. According to Michael Cassidy (NDP, Ottawa-Centre) adults without children could pick from 100% of the rental market, while families with children had to choose from only 40% of the market. See "Bill would curb city apartments for adults only", Toronto Star, May 1, 1975.

18. Quoted in "Clement is urged to stop landlords victimizing tenants", Toronto *Star*, April 29, 1975.

19. *Ibid*.

20. See "Lewis quotes federal Tory to back call for rent controls", Toronto *Star*, May 6, 1975.

21. See "City is denied control of downtown parking rates", *Globe and Mail*, May 15, 1975.

22. *Ibid*.

23. *Ibid*. (Mr. Warren became President of Canada Post Corp - see the profile in *Canadian Business,* July 1984.)

24. "Development man criticizes rent controls", Toronto *Star*, May 15, 1975.

25. See note 18.

26. *Ibid.*

27. See, "Group to push tenants' rights in Ontario election campaign", Toronto *Star*, May 17, 1975.

28. *Ibid*.

29. *Ibid*.

30. "Rent controls possible in '76 Tory MPPs say", Toronto *Star*, May 22, 1975.

31. Quoted in "Godfrey joins growing call for rent curbs", Toronto *Star*, June 7, 1975.

32. "Rent controls needed if wages, prices frozen, Irvine says", *Globe and Mail*, June 6, 1975.

33. "Crombie wants rents limited to price rises", Toronto *Star*, May 28, 1975.

34. "Shield tenants from fast evictions, Ontario urged", Toronto *Star*, May 28, 1975.

35. See *Report of the Task Force on the Status of Tenants*, note 17, p. 30

36. See note 32.

37. "Lewis assails 'false' ads on rents", Toronto *Star*, May 21, 1975.

38. *Ibid*.

39. See "Godfrey joins growing call for rent curbs", Toronto *Star*, June 7, 1975.

40. For a description of the B.C. system, see Hamilton and Baxter (1975) and Klippert (1976).

41. "Irvine says he's seeking ways to keep down rents," Toronto Star, June 6, 1975.

42. Ibid.

43. Ibid.

44. The principal regulatory power of local governments in Canada is licensing. Cities routinely control many types of "undesirable" behaviour by licensing individuals or businesses from street vendors to many types of retail establishments which require annual business licences. Even dogs and bicycles are controlled (to some degree at least) by municipal licences. While many local jurisdictions in the U.S. impose some form of rent controls (see Baar, 1977; Lett, 1976; Heskin, 1983), there is considerable doubt that local governments in Canada would have the constitutional authority to do so -- unless it was specifically delegated to them by their provincial government.

45. "Godfrey joins growing call for rent curbs," Toronto Star, June 7, 1975.

46. Ibid.

47. Ibid.

48. "Rent controls needed if wages, prices frozen, Irvine says," Globe and Mail, June 6, 1975.

49. "From the ground up" (editorial) Globe and Mail, April 15, 1975.

50. See "More housing the only solution," (editorial) Toronto Star, June 7, 1975; "Help needed for hard-pressed tenants," (editorial) Toronto Star June 10, 1975; "Bring rent complaints to public view," (editorial) Toronto Star, June 21, 1975; "Rent controls alone won't help tenants," (editorial) Toronto Star, June 28, 1975.

51. Quoted in "Nixon stung by election remark but Scrivener won't back down," Toronto Star, June 14, 1975.

52. "Rental Review board is sought by Metro," Globe and Mail, June 21, 1975.

53. Ibid.

54. "Single metro board for rent review sought by Council," Toronto Star, June 21, 1975; Globe and Mail, note 52.

55. Toronto Star, note 54.

56. "Irvine says Toronto rent curbs would be 'disaster', urges rejection," Globe and Mail, June 26, 1975; "Irvine rejects Toronto plan for rent curbs," Toronto Star, June 25, 1975; "'Don't vote Tory' tenants advised over rent controls," Toronto Star, June 26, 1975.

57. Globe and Mail, note 54.

58. Ibid.

59. Ibid.

60. "'Don't vote Tory' tenants advised over rent controls," Toronto Star, June 26, 1975.

61. "Lastman says he'll be persistent," Toronto Star, June 26, 1975.

62. "Rent control plan decision delayed," Toronto Star, July 24, 1975.

63. Quoted in "Real estate men warn against rent controls" Toronto Star, July 29, 1975.

64. "Ontario plans review boards on high rents", Toronto Star, July 31, 1975. We recall the approach of Mackenzie King to the problem of combines. See Gorecki and Stanbury (1984).

65. The Act had previously been revised in a major way in 1970. See Makuch & Weinrib (1984) and Stanbury (1985a, Ch. 3).

66. See note 64.

67. "Opposition pans rent boards", Toronto Star, July 31, 1975.

68. Ibid. On suasion as a governing instrument, see Stanbury and Fulton (1984).

69. See note 67.

70. As quoted in note 67.

71. "Mayors say rent review won't save gouged tenants", Toronto Star, August 2, 1975.

72. Ibid.

73. "Godfrey urges that landlord be licensed," Toronto Star, August 1, 1975. "A chairman's compulsion to control" (editorial), Globe and Mail, August 2, 1975.

74. "Tenant groups say scheme is useless", Toronto Star, July 31, 1975.

75. "Developers generally approve rental review plan", Globe and Mail, August 1, 1975.

76. Ibid.

77. See note 74.

78. See note 75.

79. "Requiring landlords to justify increases" (editorial), Toronto Star (editorial) July 31, 1975.

80. "A chairman's compulsion to control" (editorial), Globe and Mail, August 2, 1975; "It could have been worse", Globe and Mail, August 5, 1975.

81. See Toronto Star, August 5, 1975; Globe and Mail, August 2, 1975.

Chapter 7

RENT CONTROL AS A CAMPAIGN ISSUE

1.0 INTRODUCTION

It is evident from Chapter 6 that all three political parties in Ontario had made a commitment to some form of rent regulation prior to the calling of the provincial general election on August 11. During the campaign competitive pressures, particularly between the Conservatives and the NDP, forced the former to "up the ante" to attract or retain the support of tenants. However, despite the number of announcements late in the campaign, it is fair to say that the Tories' position on rent regulation was not clear prior to election day. In point form the major events in the campaign concerning proposals for rent regulation were as follows:

- August 11: Premier William Davis calls a provincial general election for September 18.
- August 18: Premier Davis, speaking to Tory candidates and party officials, said that if the PCs were re-elected they would find a "mechanism" stronger than what the party had previously proposed to prevent rent gouging, but it would not be rent controls. He indicated the Tories plan would be spelled out in more detail during the campaign.
- August 25: The 16-page Liberal Party platform includes the same proposal for rent review put forward on June 6. (Liberal MPP Margaret Campbell had introduced a private member's bill to permit large municipalities to impose rent controls in May 1974.)
- September 2: Premier Davis announces that, if elected, the Unconscionable Transactions Act will be amended to give the courts the power to determine if rent gouging has occurred and to order a more reasonable increase. There would be no penalty for landlords found to be gouging, however.
- September 4: NDP Leader Stephen Lewis attacks the PC's proposal and promises strong rent controls. He creates media visibility by presenting a series of specific cases of rent gouging. These had been solicited by the Party in its door-to-dooor campaigning and in newspaper ads in three cities in August.

- September 5: A survey of 500 tenants for the North York Tenants' Information Program found that the latest increase averaged 16.9% while one-quarter of those surveyed experienced an increase of 20% or more. The survey reported that 92% of tenants favored rent control.

- September 5: A survey of 500 tenants for the North York Tenants' Information Program found that the latest increase averaged 16.9% while one-quarter of those surveyed experienced an increase of 20% or more. The survey reported that 92% of tenants favored rent control.

- September 5: In light of Stephen Lewis' revelations and the North York survey, the Toronto Star reversed its editorial opposition to rent controls. It also invited its readers to write to the paper about the problem -- and was deluged with letters. The Star subsequently ran a series of feature articles on rising rents.

- September 5: Liberal Leader Robert Nixon promised that if his party formed the next government it would establish rent review boards with the power to rollback excessive rent increases.

- September 6: The Task Force on the Status of Tenants, created by Toronto City Council, recommends the City to obtain the power to impose rent controls and that it appoint a housing ombudsman.

- September 8: Premier Davis makes several statements "clarifying" his party's position on rent review, but there is confusion regarding the powers to be given to the proposed rent review boards. It appears that the boards are to be given the power to rollback excessive increases.

- September 8: Premier Davis announces that if elected the 100,000 elderly tenant recipients of the Guaranteed Annual Income Supplement will receive rent supplements for all rent increases above 12% up to $25/month.

- September 8: Stephen Lewis proposes that local rent control boards be given a 12% guideline for maximum increases and rollback powers retroactive to July 1, 1975.

- September 18: The Progressive Conservative Party under William Davis is re-elected as a minority government. (PCs obtain 51 seats, while the NDP obtains 38 and the Liberals win 35. Previously, the PCs had 78, the Liberals 20 and the NDP had 19 seats following the 1971 election.)

2.0 AN ELECTION IS CALLED

On August 11, less than two weeks after the announcement of his party's proposal to create local boards, Premier Davis called an election for September 18, 1985. The latest public opinion polls had indicated that the Liberals, previously well ahead of the Conservatives, had had their lead cut to just three percentage points in July. According to NDP leader Stephen Lewis, "Ontario is in a highly changeable mood: I would not dare to predict the outcome".[1]

The issue of rent controls did not initially attract a great deal of attention in either party policy statements or in the media. Two days after the election call the Globe and Mail ran a half-page feature article spelling out the perils and pitfalls of rent controls, focusing particularly on the situation in British Columbia.[2] This was followed up by an editorial the next day reinforcing the key points from the article. It was aimed at "[discouraging] New Democrats in Ontario from dwelling on the gloriws of rent control".[3]

Therefore, as the campaign began the position of the three parties on rent control was as follows: (a) the Tories had promised legislation to establish local rent review boards where they were requested by a municipality. The boards, however, would not have the power to rollback "excessive" rent increases; (b) the NDP had long favoured some form of rent control. On June 6th Stephen Lewis had promised strict rent controls along the lines enacted by the NDP in British Columbia in 1974; (c) the Liberal Party, also on June 6th, proposed that local rent review tribunals be established -- they would have the power to impose a settlement in disputes over rent increases. The stage was set for another round of "competitive bedding" for the support of voters on the issue of rent controls.

3.0 THE TORIES' SECOND STATEMENT ON RENT CONTROLS

On August 18 Premier Davis told a group of Tory candidates, campaign managers and party officials in Toronto that a re-elected PC government would move against landlords that gouged tenants for high rents. If the government's rent review boards were too weak, as had been suggested by the opposition parties, "we will develop a mechanism to deal with rent gouging", he said.

Later, in an interview, he stated that the "mechanism" would not be rent controls, but rather a procedure under which the government could deal toughly with excessive rent increases. He added that he believed his government had demonstrated that it was willing to do something about rent gouging, but that it had had "the good sense to realize that rent controls would not work, even before the experiment in British Columbia proved the point to all who doubt it."[4] The Premier indicated that he would spell out his rent control plan in more detail during the course of the election campaign.[5]

Although the Toronto Star reported seven days later that the "contentious" issue of rent control "seem[ed] to have been diffused" by Premier William Davis' recent announcement,"[6] the issue continued to simmer on the back burner during the second and third weeks of the campaign. Several Tory candidates, especially those in Metro Toronto ridings, remained uneasy about the Premier's stand on the issue. Barbara Greene (formerly the Controller for North York), running as the PC candidate for Downsview, stated in a televised debate on August 28 that in her opinion the Davis government had erred in proposing to set up rent review boards without power to disallow exorbitant rent increases. "I don't think it [the proposal] has enough teeth at all. This is something I feel very strongly on. I think tenants do need rights and I think the rent review boards should have muscle and the power to act."[7]

Odoardo di Santo, the NDP candidate in Downsview, stated that the lack of rental accomodation was the biggest housing problem in that riding. "We are faced with a government that is completely indifferent to the needs of the people ... People who are looking for an apartment are gouged by landlords and there is no way they can be protected," he said.[8]

3.1 More Pressure for Rent Controls

At an all-candidate lunch the next day (August 29), Tory candidate Mel Lastman (former Mayor of North York), running in the Armourdale riding, stated that he was only temporarily satisfied with his party's proposed rent review boards. What he really wanted was rent control on a more formal basis: "If I didn't think I could sell the party on rent control, I wouldn't run".[9]

Neither of the opposition leaders, however, seriously challenged the PCs on the issue of rent control during the initial three weeks of the election campaign. On August 25 Liberal leader Robert Nixon released a sixteen page booklet entitled Priorities presenting the Liberal's platform. The party continued to endorse the scheme put forth by Margaret Campbell (on June 6th) in which every municipality with a population of 50,000 or more could set up a rent review board empowered to subpoena witnesses, books and records of landlords, as well as rollback or freeze excessive rent increases.[10] The proposed boards would also have the power, acting on the complaints of landlords, to order a tenant removed from a building where he was at least two months in arrears on his rent.[11]

NDP leader Stephen Lewis also maintained a low profile on the issue during the first few weeks of the campaign. Nevertheless, the NDP had placed advertisements in newspapers in Toronto, Windsor and Ottawa asking people with rent problems to write the party.[12] During their initial house-by-house canvass, especially in Metro Toronto ridings, NDP campaign workers sought to determine if tenants had recently been subject to large increases in rent.

Thus by the end of August criticism of the PC's initial proposal for a rent review process originated from not only the public, but also from within the PC party itself -- especially among Tory candidates running in the Metro Toronto ridings. In Toronto, despite the relative silence of the press, which at that time did not support plans for rent controls, what were perceived to be excessive rent increases were probably the major campaign issue.[13]

4.0 THE TORIES STRENGTHEN THEIR STAND

Faced with growing pressure from within his party on the issue, Premier Davis called a cabinet meeting to discuss the party's policy on rent controls. At the meeting on Sunday night, August 31, 1975, it was decided that the rent review boards proposed by the Conservative government would be given the power to "apply for court action against any landlord they feel is gouging."[14] The new policy was announced Tuesday, September 2. Davis promised that if re-elected the PC government would amend the Unconscionable Transactions Act, an act that dealt primarily with usury or high interest rates, to allow the courts to determine whether gouging was taking place and to impose what they considered to be a reasonable rate of increase. The amendment would give the boards the power to apply rent increases retroactively to July 30, the date of the Tories' first statement proposing rent review boards. "I don't think it will be used that often," said Mr. Davis. "The fact that it is in the act will be a sufficient deterrent."[15]

Under this proposal, however, there would be no penalty for landlords found by the courts to have been rent gouging, other than to have the rate of increase reduced. The Premier also stated that the amendment would have to be worded to help the courts define gouging. He commented that many landlords were responsible people[16] and that the review process would probably work in most cases. He continued to reject outright controls which would inhibit the growth of the stock of rental accommodation. Mr. Davis stated that the government did not announce the rollback provision when the rent review boards were announced July 30 because "it has required a great deal of thought."[17]

4.1 Reaction to the Proposal

Reaction to the new Tory proposal was swift. Almost immediately, Stephen Lewis stated that taking rent gouging landlords to court was not going to solve the problem of soaring rents.[18] The NDP leader claimed that landlords, with the help of their lawyers, could delay court action for months, and even years. "You'll be retired by the time you get a settlement," he said. "You'll start at the age of 30, you'll get your first judgement when you're 40, it'll be appealed when you're 50, it'll go to the Supreme Court when you're 60 and your kids will inherit the settlement."[19] Lewis said that the NDP alternative of giving the boards the power to stop or rollback rent increases would be simpler. He added that in some urban areas rent controls might be needed for "one or two or three years" until rents became more stable.[20]

The reaction of local politicians in Toronto to the new Tory proposal was mixed. Toronto Alderman Michael Goldrick stated that while it sounded promising, Davis was "dumping the issue into the lap of the courts and making them do the work the politicians should be doing."[21] Toronto Executive Alderman Reid Scott said, "people will be old-age pensioners before they get through appeals under that act. It sounds like Davis is making up the rent review policy as he goes along in a sort of panic reaction."[22] While calling the new proposal a "Band-Aid approach which has municipal governments totally confused," Metro Chairman Paul Godfrey said it was a clarification "which goes a long, long way to solving rent gouging."[23]

In the opinion of Etobicoke Mayor Dennis Flynn, the new proposal was "reasonable, but we will need experience with the rent review boards to see how they work ... But it should inhibit the landlords who thought they would get the jump on any proposed legislation."[24] Toronto Alderman Dorothy Thomas argued that Premier Davis had to go further than the mere creation of rent review boards that could not compel landlords to set equitable rates. "There will be a substantial number of appeals, but then landlords will stop charging all they can because they will want to avoid all that hassle," she stated.[25]

North York Mayor Mel Lastman, who had publicly committed himself to selling the Tories on rent controls, was jubilant. "The way Davis has done it is fantastic. He has every avenue covered. Anyone who has gouged since July 30 can be rolled back ... Those landlords who had a field day in the last two months are in for a surprise."[26]

Ian Hood, chairman of the Ontario Union of Tenants, reacted to the new proposal by stating,

> The rent review board was an excellent manoeuvre by Davis, but the entire process would have no effect on the problems we face today ... Court action, if any, would apply only to an individual tenant, not the tenants of an entire building...It looks good, but is far from being good. People have hope in a board but this approach will get their vote and then lead them down the garden path.[27]

5.0 THE NDP MAKES RENT CONTROL A MAJOR ELECTION ISSUE

Just as the PCs concluded that their new proposal had cooled the issue of rent controls, the NDP turned up the heat. In Penatanguishene on September 4 Lewis gave rent control top priority in his campaign by publicizing individual cases of rent gouging. These, he said, illustrated the inadequacy of Premier Davis' proposal to let rent review boards take rent gougers to court.[28] As Lewis documented each of the rent increases, members of the audience exclaimed their surprise and decried the increases. After documenting cases of single working mothers, widows and pensioners being faced with 30% to 50% rent increases, the NDP leader called the Tory proposal of shaming landlords into reducing increases in rent as "silly" and just "another election ploy." "Most large landlords don't know the meaning of shame," said Lewis. "Someone is going to have to tell the premier that the rental crisis is now and not in some distant future. Someone has to explain to the Conservative government that the crisis in accommodation is affecting the lives of people now."[29] In an earlier interview, Michael Warren, former deputy minister for housing, had said, "If there is going to be a rental crisis, it will be in 1976."[30] Mr. Lewis said the Conservatives' proposal to allow the boards to take court action against landlords will create "a lawyer's paradise". The courts will be "absolutely chock-a-block" with cases.

Lewis also had some hard words to say about the Housing Minister Irvine. "He is one of the most inflexible, obstinate Tories I have ever encountered. I bear him no malice, but he's like the pre-Cambrian Shield in human form."[31] He also said that he did not begrudge landlords a fair profit, but he did begrudge "everything above that in a time of crisis."

Stung by Lewis' charge that tenants were being gouged by landlords, the Urban Development Institute (UDI) accused Lewis of picking "uncharacteristic examples" and "odd incidents" to blacken the names of landlords. Roy Wykes, a former president of the UDI and president of Monarch Investments Limited, which owned 450 suites in Toronto, said: "To use those incidents to cast doubt on the whole industry in that way is crazy." Robert Strom, chairman of the UDI's apartment group, was incensed by the media reports of Lewis' charges. "What you saw was 10 examples from 350,000 people in all apartments. It was yellow journalism of the worst order," he said.[32] Strom said Lewis failed to make clear if the cases that he was talking about with 50% increases involved tenants who had just finished five-year leases with low rentals. He added that no one writes stories about landlords attempting to keep rents low despite lost increases.

Herb Stricker, a member of the UDI's board of directors, said that only two buildings seemed to be involved in Lewis' charges. He said, "it seemed in the paper like every landlord in the city was doing something wrong. The entire thing was taken out of context."[33] Stricker said a recent survey of Institute members showed that increases last year ranged between 11% and 18%. "All of this represented increased costs and possibly some of it was catching up with past low rents," he said.[34]

While particularly critical of Lewis, Wykes was also disappointed with Liberal leader Robert Nixon and Premier Davis, who were also attempting to make political yardage on apartment rents. "For political reasons they all seem to be trying to bring in some form of rent control...Why control rents when no other segment of the economy will be controlled?" he asked. "It's all right for Lewis to pick out the odd sob story -- there must be many of these, I don't doubt it -- but the majority of apartment owners are responsible people who are behaving themselves."[35]

However, at a meeting in Oshawa on September 5, the NDP leader replied, "I have a message for the landlords. The rent examples I chose were becoming more and more representative of what's happening in this province in the major urban settings."[36] Focusing on the Metro Toronto region to make his point, he named 11 landlords who he said were increasing rents excessively. They had asked for increases ranging from 19% to 46% for tenants renewing two year leases for the same period or less.[37] To back up his claim he listed 33 examples from a survey taken in the summer of 1975 by the Federation of Metro Tenants' Associations. It covered what Lewis called a representative sample of about 25 apartment buildings in Metro Toronto.

The survey, part of the North York Tenants' Information Program, was conducted by senior university students and financed by a federal Opportunities for Youth grant. The students knocked on over 500 doors, covering over 10% of all the privately owned apartments in the borough, which accounts for over one-quarter of the rental accommodation in the Metro area. The average rent increase in North York, according to the study, was 16.9% of those that revealed their latest rent increases.[38] One-half had increases over 15%, one-third had increases higher than 18%, one-fourth more than 20% and more than a tenth had rent increases of 30% or more. The increases ranged up to 72%.

The North York study also showed that:

- there was a definite preference by landlords for short leases,
- the cost of shelter was taking an increasing share of income,
- more than one-third of tenants surveyed didn't know the name of their landlord,
- more than 97% of tenants interviewed had no knowledge of tenant organizations, and that
- 92.2% of tenants favoured rent control.[39]

Although the report was criticized for methodological shortcomings, the Globe and Mail allowed that "it will stand as the definitive survey of rents until something done on a more scientific basis is available for comparison."[40] Another survey of rents in Metro Toronto was done by Elliott Research Corporation, a private consulting firm, for the Ontario Minister of Municipal Affairs and Housing. Although the report was submitted to the government in August, the Minister of Housing refused to release the report until December 2, 1975. The Deputy Minister, Donald Crosbie, stated that an earlier release would have "confused the issue."[41]

On September 5, the Federation of Metro Tenants' Associations held the first of 11 all-candidates meeting to discuss rents and tenants' rights. When the Conservative candidate for Etobicoke, John MacBeth, refused to attend, he and the Tory rent proposals came under a blistering attack. Federation spokesman Shirley Richards commented, "It shows his arrogance for ignoring this issue which is the most important one to people of this area." MacBeth, however, said the year-old Federation [actually it was created in 1972] backed the NDP and that it would have been futile to defend the government's record at the meeting.[42]

6.0 THE TORONTO STAR REVERSES ITS OPPOSITION TO RENT CONTROLS

On September 5, less than two weeks before election day, the Toronto Star, which had consistently opposed demands for rent controls, changed its editorial stance, apparently in the face of Lewis' evidence and the survey of rents in North York sponsored by the Federation of Metro Tenants' Associations. In fact, there were other forces at work. The paper was in a circulation war for the tenant market with the Toronto Sun. (See Hailwood (1975) and the discussion in section 13 below.) The Star editorial outlined the need for more information on the extent of rent increases, but stated that "30, 50 percent or more at one jump in a time of severe housing scarcity, is socially unacceptable. If increases of this order are prevalent there will have to be at least temporary rent controls ..."[43] The newspaper also asked people to write in on the topic. Within a few days the Star was apparently deluged with letters on the issue.

In its attempt to respond to tenants' issues, the Star ran a series of feature articles on rent gouging, dramatically increased its coverage of Lewis' revelations of large increases, and printed several full pages of letters to the editor, most of which detailed individual cases of rent-gouging by landlords often against the poor, elderly and disadvantaged. In an article entitled "Rent gouging: Who is telling the truth", the Toronto Star surveyed the evidence of rent gouging. While the Davis government and the UDI agreed on an estimated

15 percent average rent increase in Metro during the last year, the Star quoted Donald Kirkup saying that "half the landlords in Metro are gouging and the other half are catching up".[44] Kirkup, a real estate marketing consultant, was a former research director for A.E. LePage Ltd. and a well-known figure in Conservative Party circles. The article also demonstrated how many landlords could be making returns on their equity of up to 40% and quoted UDI president Somer Rumm as saying, "We have the privilege to make what the market can bear." After surveying arguments by the government, developers and the real estate industry that rent controls would lead to severe shortage of rental accommodation, deterioration in the maintenance of existing apartments and even higher rents, the article quoted Toronto economist and publisher (and NDP activitist) James Lorimer as follows: "all the things they're warning us about are happening now -- without controls. New apartments are not being built, older ones are being neglected and rents are soaring."

In a follow-up article two days later, the Star described how developers refinanced older buildings to make cash gains, while passing on the costs of the more expensive new mortgages to tenants. (Recall from Table 5-5 in Chapter 5 that the average interest rate on 5-year conventional mortgages rose from 9.5% in 1973 to 11.24 % in 1974 and to 11.43% in 1975.) Quoting from a brief prepared for the Federation of Metro Tenants' Associations, the Star reported that "the renewal, refinancing or replacement of mortgages is without doubt the single mostcompelling reason for the number of excessively high rent increases imposed by many landlords over the past year or two."[45] In defending rent increases in one of his company's buildings, the Star quoted Alex Grossman, president of Belmont Construction Ltd., "If I were to act as a good businessman I could refinance it and take out my equity. But that would be unethical." The article concluded, "Unless something is done--and if the government at Queen's Park after next week's election refuses to impose rent controls--Metro tenants can expect their rents to keep going up in leaps and bounds, for a few years at least."[46]

(It should be noted that the Ministry of Municipal Affairs and Housing (1982, p. 96) estimated that the nominal median value of rental buildings of 20 or more units in the Metro Toronto area increased as follows:

	1970-1974	1974-1975
Toronto	- 3.9%	+ 8.6%
North York	+34.5	- 3.1
Etobicoke	+24.1	+ 2.7
East York	+14.8	- 8.0
Scarborough	+10.9	- 1.2
York	+50.5	+18.4

The data for increases in the price of apartment buildings in 1975 do not suggest there was a "speculative bubble" associated with rising rents or the anticipation of rising rents.)

A second article in the Toronto Star on September 6, 1975 leaked the highlights of the report of the Task Force on the Status of Tenants which urged the City of Toronto to press the provincial government for rent controls.[47] It was composed of two aldermen (Dorothy Thomas and Allen Sparrow) and five representatives of the Federation of Metro Tenants' Associations. The report, which took seven months to prepare, made several recommendations. They included

- Asking the Ontario government for permission for Toronto City Council to impose rent controls.
- The appointment of a housing ombudsman by City Council who will rule between landlord and tenant when they agree to binding arbitration in disputes.
- Licensing all landlords, including the creation of a public data bank on them and tenants.

According to the report, tenants were not well organized and didn't see the City of Toronto as having a very important role to play in their disputes with landlords.

The Task Force conceded that there was some merit in the Housing Minister's stand in June that controls would drive developers out of the housing market and solve nothing. "But we are faced with the inability of tenants to pay rents demanded". Tenants, the Task Force said, are paying the price for the housing shortage. Since other areas of Ontario were not experiencing the same high proportion of evictions for rent arrears as Toronto, the Task Force said it was simply asking Queen's Park for permission to impose rent controls in Toronto, and not the rest of Ontario. The report concluded that unless the Toronto City Council and the Ontario government took action quickly to end rent increases of more than 50% and the practice of month to month leases, "they will in the coming years be faced with problems of monumental concern."[48]

7.0 THE LIBERALS STRENGTHEN THEIR POSITION

Lewis' hard-hitting speech on September 4 referred to earlier transformed rent gouging into a major election issue. Not to be outdone, Liberal leader Robert Nixon emphasized on September 5 that a Liberal government would establish rent review boards with the power to rollback rents. The party's 16-month old plan for rent review, which was modelled on a system in use in Quebec, would apply to municipalities with a population of more than 50,000. Nixon said a bill setting up the review boards would be the first one a Liberal government would introduce in the Legislature after the September 18 election. "And to ensure that tenants are fully protected, the boards' veto power to review rents and to veto or reduce exorbitant increases will take effect as of today," he said in what was described as a major speech to several thousand people at the Toronto-Dominion Centre.[49] He continued,

> the only effective long-term solution is to get more houses built and end the accommodation shortage that makes it possible for rent gougers to operate...But until the present housing shortage subsides, tenants in Toronto and other large cities must be protected from exorbitant and unjustified rent increases.[50]

Nixon was sharply critical of the PC's proposals, which he called "half-baked" and "last-minute" ideas that were little more than an exercise in public relations. "Mr. Davis' ineffective proposals are as undesirable as the other extreme of rigid rent controls, which discourage new residential construction and ensure that the root cause of high rents -- the housing shortage -- can never be overcome."[51]

8.0 THE DAVIS-LEWIS DEBATE OF SEPTEMBER 7

On Friday, September 6 Stephen Lewis announced that he would take part in a televised debate against Premier Davis the next day. Previously he had refused to debate Liberal Leader Robert Nixon because the television station barred reporters, employing armed, off-duty policemen to keep them out. However, Lewis said the debate offered the last chance of the campaign to challenge the premier face-to-face with the NDP viewpoint and that refusing to debate would prove little.[52]

The 25-minute debate covered three main topics -- the loss of farmland, the government's housing record, and rent controls. At the outset of the debate Premier Davis said he and Lewis "shared many of the same concerns and differ probably very substantially in terms of the solutions." The two leaders, however, were far apart on the issue of rent control. Lewis argued in favour of controls while Davis maintained that anywhere controls had been tried, they had made matters worse for tenants and inhibited the housing market. Lewis criticized Davis for proposing a rent review board scheme which would provide for decisions by a court "where lawyers can get their hands on it endlessly."[53] He said the review boards must be given power to roll back illegitimate rent increases, otherwise tenants would remain at the mercy of landlords and continue to be hit with 25% to 50% increases.

Davis rejected Lewis' argument that lawyers would tie up cases "endlessly", and insisted the rent review measure would be a major deterrent to gougers. "Do you know that the Unconscionable Transactions Act is an act of so little consequence that there are only four reported cases under that act since 1912?" asked Mr. Lewis. He continued, "And to pretend to the tenants of Ontario that this kind of act will protect them when every young law student knows it's an inconsequential act of last resort is frankly, Mr. Premier, misleading the tenants of Ontario."[54]

In his rebuttal the Premier denied the PCs' proposal was misleading and said that Mr. Lewis had not seen the proposed amendments. "You manage not to propose them until after the election, it's a very neat thing to do," Lewis replied. Mr. Davis insisted that "the lawyers are quite satisfied that amendments can be made to the act that will solve this problem in terms of gouging in a way that is far more creative than what you have been suggesting". "Mr. Premier", Lewis interrupted, "it isn't creativity the renters of Ontario want, it's relief."[55]

During the campaign the PCs continually rejected the call for rent controls by pointing to British Columbia where they said controls imposed by a NDP government in May 1974 had inhibited new apartment development. They said that under rent control Vancouver apartment starts dropped 47% over the previous year. Lewis replied that in Toronto, where there were no controls, the drop was 51%. He went on to say that for the first six months of 1975 the drop in apartment starts in Vancouver was 12%, while in Toronto it was 19%.

Premier Davis, however, insisted that rent controls in British Columbia had inhibited investment and that part of the reason for the drop in Toronto was density restrictions imposed by municipal government. Lewis retorted that the difference was that in Vancouver tenants did not pay increases beyond 10.6%, while in Toronto they pay as much as 50% more. "...In your Ontario where things are so freewheeling and easy, it is even more critical than in B.C. where at least they are trying to protect tenants."[56]

According to the Globe and Mail, Lewis took command of the debate with Mr. Davis appearing tense and nervous when it began. (Four out of five members on the Globe and Mail's panel of swing voters said that Lewis got the better of the debate.) Lewis stated that when the election was called he thought it would lead "to the natural return to power" of the Conservatives, but said he was surprised at the inability of the Government to consolidate its political strength. He said the party was in trouble for its failure to respond on important issues.[57]

9.0 MORE EXAMPLES OF GOUGING

Stephen Lewis continued his attack on the Tories for failing to protect tenants from unfair rent increases during a press conference in Scarborough the next day (September 7). According to the NDP leader, "the inadequacy of Davis' response is everywhere understood". He predicted that before the September 18 election Davis would have to "publicly shift ground," admit that he had made a mistake and accept the NDP's proposal to give rent review boards the power to roll back rents.[58] He forecast "a tremendous backlash" from voters if the government did nothing to crack down on landlords".[59] Lewis said that "everywhere I go people come up to me and talk about high rent increases they face...50% of Ontario residents are tenants[60] and I think we have struck a very strong nerve with them.[61] The NDP offices downtown are like a rental agency", he said of the public's response since he had first started emphasizing the issue several days before.

"Rent increases are clearly a matter between the NDP and the Government", he continued, after citing 11 cases of rent increases of 34% to 67% in Metro Toronto, including a case of an 85 year old woman who would have to spend 93% of her income to cover a rent increase.[62] "These things should not be allowed to happen in Ontario", he stated, after criticizing "the reluctance of the Conservatives to intervene in the lives of the development industry" and "the hand-holding relationship between the Conservatives and the developers."[63]

Lewis stated that rent gouging by landlords was the pattern across Ontario in every urban area.

> Rent review boards are necessary everywhere to review rents and leases and to give tenants continual security. There will be pressure on housing markets for the foreseeable future and we will need review boards permanently...It is perfectly legitimate to pay rent increases, but I don't think the tenants of Ontario should be paying for corporate refinancing or excessive profits for the owners.[64]

Nine of the eleven cases Lewis cited involved three buildings owned by Hanseatic Holdings Ltd., a German company that had refinanced the buildings recently. Lewis believed that the refinancing was the main reason for the large rent increases with the owners making the tenants pay for the extra money they had borrowed.

However, Bert Reitter, vice president of Park Properties Management Ltd., which managed the Hanseatic properties, said that Lewis was using landlords as a "scapegoat" and as "some kind of evil ogre". He said that the 30% to 35% increases in his buldings were justified: "We're the only commodity that guarantees you (the tenant) a 12 or 24 month period without increases" he said, referring to the length of some leases.[65]

10.0 THE RENT CONTROL ISSUE CREATES PRESSURES WITHIN THE CONSERVATIVE PARTY

On Monday, September 8, the Toronto Star ran a front page article entitled "Rent Control Splits PCs 4 want tougher party line". The Star had interviewed

14 PC candidates running in Metro Toronto ridings and found four who wanted more radical action against rent gouging landlords than Premier Davis had proposed. Mel Lastman, running in Armourdale declared, "if Davis doesn't bring in strong rent controls, I'll not run again...What has been going on has been disgraceful". He added that, although he advocated "real strong controls", they must provide escalation to meet landlords' actual rising costs."

Barbara Greene, seeking election in Downsview, said Davis "should come out with stronger methods of protecting the rights of tenants". She added that the rent review process "should be given teeth immediately. It should not be something tied up in the courts." Frank Vasilkioti, running for the Tories in the St. George riding, supported the NDP position of review boards with freeze or rollback powers. He also advocated guaranteeing security of tenure with the right to renew leases unless landlords could show reasons to refuse. Ron McMurtry in Eglington called Davis' latest proposal "a useful second step" which would solve many tenants' problems, but "there may be more required as we go down the line". He said he had found cases of real hardship among tenants, especially among older people and believed "some form of rent rebates for tenants with incomes below a given level" merited consideration.

The other 10 PC candidates were either satisfied to give Davis' latest plan a trial or were opposed to controls on the grounds that they could not be made to work and would only discourage builders from solving the rent increase problem with more rental accommodation.

10.1 Premier Davis Responds

By the end of the weekend of September 6-7 it seemed clear that Lewis had made major gains in pressing the government for rent controls. Media coverage of the issue had intensified, and Lewis had followed up the gains he had made in the Saturday debate with a Sunday press conference that had grabbed the Monday headlines of most of the dailies across the province on Monday.

Wishing to maintain the tradition of Conservative hegemony in Ontario, and becoming increasingly convinced that the rent problem was the key issue in the final stages of the campaign, Premier Davis moved swiftly and skillfully. On Monday (September 8), he announced that rent review boards would be empowered to roll back temporarily landlords' proposed rent increases, retroactive to July 30. The Premier's statement was interpreted three ways: as a clarification of the Conservative position on rents; as an elaboration of it; and as a reversal of policy, depending on the statement being made, by whom and the time of day.[66]

Earlier in the day, in some "prickly" exchanges with reporters, the Premier attributed the apparent change in his position -- having said there would be no rollback powers -- to "complications" in the proposed legislation and a lack of understanding by reporters. According to the Globe and Mail,

> He said the boards would have the power to roll back landlords' requests for increases. "It is not a rollback, it is exactly what we originally said. This is how the Unconscionable Transactions Act works -- the board has no right to roll back prices. This is the principle of the act."[67]

An afternoon interpretation of the Premier's policy suggested that it amounted to at least a temporary price rollback particularly in retroactive cases. The proposed legislation would be retroactive to July 30, and if the board took a landlord to court, tenants would only pay the board's suggested increase, not the landlord's, at least until the case was settled.

"Isn't that a price rollback?" a reporter asked the Premier. "Use whatever language you like" said Mr. Davis. "It's a request rollback if anything, rolling back a landlord's request for an increase...You can't describe as rollback what hasn't happened. The board will set increases, not roll back."[68]

The Globe and Mail report stated that the Premier's first amendment to the review board procedure came September 2. His two paragraph statement said the Unconscionable Transactions Act would be amended to allow the boards to "apply to court for action against any landlord they feel is gouging." There was no suggestion that the boards would set a fair rent, that this rent would be allowed while court proceedings went on, or that tenants would get back any portion of an unfair increase.[69]

On Monday after his television debate with Stephen Lewis on Saturday, Mr. Davis said he had described then what he had in mind. But the matter was still uncertain. When a review board took a gouging landlord to court, the Premier said during the debate, "the tenants will be protected in terms of the lease being maintained. There will be no alteration until the adjudication is made."[70] This statement was interpreted by reporters as meaning that no increases would be allowed while the case was in Court, not that the rent review boards would control what increase a landlord could collect in the interim.

The Premier's description of the board's function was made during a series of five taped television and radio interviews. He did not make a concrete policy statement, but his elaborations put the board's function in a new light. However, when asked if this latest description had Cabinet approval, Davis replied: "Of course it has -- it hasn't changed."

The Premier said that there had been a misunderstanding of his scheme and, in a promised "Dick and Jane" explanation issued from Queen's Park late Monday night, he said that by the time municipalities with low vacancy rates could request the board, landlords would have to give at least two months' notice of rent increases. A tenant or a group of tenants would then have 30 days to appeal the increase to the rent review board. It would be able to freeze the exisiting rent until it made a decision, and a tenant's lease would not be allowed to expire until that decision was made, Mr. Davis said. The board would determine fair rent increases. If the landlord disagreed, the board would be able to take him to court under an amended Unconscionable Transactions Review Act.

The court would then determine what a fair rent would be. While it was deliberating, only the rent increase approved by the rent review board would be in effect, not the landlord's suggested increase. The board's case against the landlord would be paid for by the government. The court's decision would be final.

For those "special" cases of a rent increase between July 30 and the time when the boards began operating, Mr. Davis promised rollback powers for the boards. They would decide whether a rent already in effect was "excessive" and could "not only recommend a reduction in the rent, but a rebate for the period in which the largest sum has been paid", Mr. Davis's statement said. If the case went to court and the court backed the board's decision, the landlord could charge only the rent the board allowed and would have to refund the difference.[71]

10.2 Davis Promises Rent Subsidies for the Elderly

Earlier in the evening of September 8, at an all-candidates meeting in Bramalea, Davis announced that if re-elected the PC government would subsidize rents paid by those old age pensioners receiving Guaranteed Annual Income Supplement (GAINS) benefits. The 100,000 recipients of the benefits who lived in rented accommodation would qualify for a proposed new rental aid program. "The new supplements will pay for all rent increases of more than 12% to a maximum of $25 per month. The first supplementary payment would be made in

November 1975 and would be retroactive to increases paid since April 1, 1975", Mr. Davis said.[72] He continued, "We estimate that literally all those GAINS recipients living in rental accommodation will be fully protected from any erosion of income caused by rent increases."[73] He added that the Government would monitor rent increases involving GAINS recipients and refer "excessive" increases to rent review boards.

The Premier, who affirmed at the start of the election campaign that he would be making "no expensive promises", stated that the extra cost of the GAINS proposal would be "financed to the maximum degree possible by a reordering of existing spending priorities."[74] He remarked that it was "worth noting" that the platform of Liberal Leader Robert Nixon

> makes no mention of the impact of inflation upon those living on fixed incomes. Nor does the Nixon program contain any concrete proposal to protect low-income pensioners ... I might add that Ontario's pensioners receive higher benefits from this government than in the NDP provinces of British Columbia, Saskatchewan and Manitoba ... Furthermore, with the new rental supplements, Ontario's pensioners will be better protected against rising costs of living than will any pensioners in any other part of Canada.[75]

The reaction of the PC candidates in Metro Toronto to Davis's announcement was positive, although Mel Lastman and Frank Vasilkioti said there were other steps the provincial government could take to protect tenants from gouging landlords. Lastman said he would like to see all leases in an apartment building have a common expiry date "so that if the landlord tells anybody to get out, everybody can walk out and the landlord might think twice about raising rents unreasonably."[76] He also said he wanted leases to run at least one year to eliminate the month-to-month leases with which some landlords "are holding a stick over the tenant's head."

Vasilkioti said Davis's plan was "great as far as it goes, but also should include a requirement that rent increases be restricted to compensating landlords' operating costs."[77] Barbara Greene said that Davis has taken a much better position than before. "I'm very pleased that he's going to put more teeth into the review boards, though some details sound rather confusing. If I'm elected, I'd like to have a good look at the legislation."[78]

11.0 THE OPPOSITION PARTIES RESPOND

11.1 Lewis and the NDP

Although Mr. Davis strengthened his party and regained control of the headlines on Tuesday, September 9 with the announcement of rental aid to the elderly, both opposition party leaders assailed the Premier for his handling of the rent controls issue. Speaking at a press conference in Cornwall on Monday, September 8, NDP Leader Stephen Lewis called the Premier's announcement that day "a remarkable flip-flop from the debate we engaged in on Saturday...The Premier has moved again under the groundswell of pressure from the NDP."[79] Lewis said the latest government policy change on rent control was the third in the last few days -- all of them were in response to NDP proposals and criticism. "The change today speaks of a government in desperation ... I feel pleased that our campaign forced a certain sanity on the government. The Conservatives' ricocheting policies have demonstrated that they're losing the grip and trying to clutch some victory from defeat."[80] While Lewis welcomed the Premier's shift in direction, he noted that it was done only "as a kind of anxiety, some would call it panic that catches up with a party sensing a loss of government."[81]

Lewis kept pushing the PCs by suggesting that Davis go farther "for those municipalities who want rent control [Ottawa and Toronto had requested it], the Government should offer it."[82] Lewis also suggested that the Ontario government set a guideline of 12% as the maximum yearly rent increase. (Subsequently, as Opposition Leader facing a minority Tory government, Lewis demanded rent increases be limited to 6%.) The rent review boards should be established with the power to review any rent increase and roll it back to the 12% level, if the increase is unwarranted, without having to take the landlord to court. This would mean, he said, that in some cases the boards would roll back increases to less than 12%, if the landlord's expenses, plus a fair profit on his investment indicated that only a smaller increase was justifiable. On the other hand, if a landlord had exceptionally high expenses, the boards should allow increases that might be slightly higher than 12% in order to be fair. Lewis said he was suggesting 12% as a guideline, because it was slightly higher than the rate of inflation in 1974 and would serve as a useful "benchmark" for landlords and tenants."[83] Any rent reviews would have to be retroactive to July 1, when speculation began that the government would control rent increases. Since July 1, "while the Premier toyed with the issue, the landlords raised the rents."[84]

On Monday evening in Ottawa, Lewis pressed the point with more examples of rent gouging. Reaffirming his pledge to show cases of rent hardship across the province, he publicized two examples including a case in which a 28.6% rent increase forced two Ottawa sisters, aged 84 and 88, to pay more than $225 in rent out of their monthly income of less than $500.[85]

Lewis stressed that the election issues had now clearly become housing, energy, and people as set out by the NDP at the beginning of the campaign. The party refused to be diverted by such non-issues as integrity and exchanges of "personal abuse" between Premier Davis and Liberal Leader Robert Nixon. The Conservatives were obviously in trouble now and the election was clearly a three-party contest. Lewis said, "I have no sense of outcome, but I have a sense of major input being made by the NDP".[86]

11.2 Nixon and the Liberals

Liberal Party Leader Robert Nixon reacted to Davis' latest proposal that rent review boards would have rollback power by calling the announcement a sign of "very serious weakness and indecisiveness" on September 8. He continued, "I think the polls are telling them that they are losing the election, and they are desperately trying to find some way of restoring confidence in their fading government". Nixon stressed that the Liberal Party's position -- municipal rent review boards for cities with population of more than 50,000 with powers to roll back rents -- was before the House for 16 months in the form of a private member's bill sponsored by Margaret Campbell (Lib-St.George). "We feel this is the only legitimate answer and it has been our consistent stand," he stated.[87]

On September 10 June Rowlands, Liberal candidate in St. David and former research director for the Liberal caucus, commented, "tenants are desperate as rents escalate. One of the causes of rent hikes has been the Davis government's on-again and off-again stand on rent control and rent boards. Landlords panicked into getting while the getting was good."[88] She pointed out that her party has had a bill on the order paper since April 1974, asking for a rent review board "with effective teeth in it -- one that would require a landlord to open his books and show reasons for rent hikes. Now the NDP is on our bandwagon and at the last minute Bill Davis has hopped on."[89]

The next day, however, Larry Grossman, PC candidate in St. Andrew-St. Patrick, suggested that Liberal MPP Margaret Campbell's drive for rent controls helped to frighten landlords into increasing rents. He said landlords knew rent controls would become a major issue in the election campaign. They have been increasing their rents "to improve their base" in case controls become a fact.[90]

Formerly a director of CMHC and housing consultant of the Toronto Social Planning Council, Mrs. Rowlands expressed disdain at the idea the PCs had proposed to roll back rent increases. "Such nonsense. Most people feel the law is stacked against them to begin with and this would take too long and would create a bureaucracy like you wouldn't believe. . . And it's very difficult to make things retroactive -- an administrative nightmare -- a hayday [sic] and a payday for lawyers and no benefits for tenants."[91]

12.0 MEDIA COVERAGE OF THE ISSUE

Although the Liberals tried to capitalize on Premier Davis' awkward handling of the rent control issue, it was clearly the NDP's issue and they benefitted the most from it. The Ottawa Citizen called the PC's announcement on September 8, "a suspect attempt by Premier William Davis to sabotage the New Democratic Party's election campaign platform."[92] One political analyst wrote in the Globe and Mail:

> It has been a campaign of issues for the NDP and its leader Stephen Lewis; issues that count, issues that bite. And there have been some notable results. Accepted ideas about pricing, profits and public controls -- whether speaking of Ontario Hydro, the oil giants or landlords -- have been altered. This has important implications for public policy.
>
> The housing issue was the NDP's strongest. It carried the attack, presenting figures that made the Government look inadequate if not bumbling. And step by step, with a fresh daily blast of horror stories, Mr. Lewis drove the government towards a scheme of rent controls. It was quite a spectacle, all out in public view in mid-campaign.[93]

Even the Toronto Star, which normally supported the Liberal Party, reported that:

> Lewis and the NDP have had success in setting the pace of this election campaign, by raising some basic issues, pursuing them with specific stories of people who have suffered because of government neglect and prompting the Tories to take some remedial action.
>
> The most spectacular issue of the campaign so far has been rent controls, an issue the NDP and Lewis have been pushing for months, but which blossomed forth as the most serious one of the campaign about ten days ago.[94]

In an article analyzing the campaign of Liberal leader Robert Nixon, another commentator in the Star wrote:

> One campaign issue that Nixon did not instigate is that of housing. It was made an issue largely by the NDP leader with his almost daily barrage of statistics on government housing programs and horror stories of soaring rents. Nixon joined the housing discussion halfway through the campaign. He proposed to put money now spent on land banking into servicing land for housing and to set up rent review boards with rollback powers.[95]

The Toronto Star publicized the issue intensively on September 9, printing dozens of letters to the editor in which people described how they were being gouged by greedy landlords. The paper also ran several articles with more cases which emphasized the human side of the rent issue -- stories that described the fears and often terror of the elderly, those on fixed incomes, the poor and infirm, single parents and families fearful at the prospect of being evicted with no place to go. Other stories documented the anger of some tenants faced with a steep rent increase or an eviction notice as a result of having children.

During the latter stages of the election campaign the Toronto Star also published analyses of the political fight in each of the Metro Toronto ridings. A typical example: on September 11, 1975 it ran an article entitled "Wilson Heights voters say rent No. 1 problem". The article affirmed the overriding importance of the rent issue to both the voters and the three politicians running in the riding.

13.0 LEWIS KEEPS UP THE PRESSURE

Meanwhile, Stephen Lewis kept hammering away at the Tories on the issue of rent controls. In Preston on Wednesday, September 10, he released 33 more examples of rent gouging by 13 Metro Toronto landlords. The increases, which ranged from 17% to 44%, came from the fourth list of "gougers" Lewis had released, and he said that more names and addresses would follow. Many of the companies listed were members of the UDI, but Lewis continued to take aim primarily at the PCs. "What Davis' rent review boards will not do and will never do is rescue these tenants whose new rents have already gone into effect, even if they are within the July 30 retroactive power period."[96] He said "human nature" dictates that most of the boards -- "which will be inundated by complaints if they are ever formed" -- will be so busy dealing with impending increases that they will ignore those already in effect. Lewis also doubted Davis' claim that the review action would be swift. He predicted that lawyers for the major developers would drag out the cases for months. The NDP Leader renewed the party's promise to limit rent increases to 12% "except in special circumstances such as when a landlord's costs are exceedingly high. They do have a right to a fair return on their investment."

The next day, September 12, in Welland, Lewis detailed four more cases of elderly Metro Toronto residents whose rents, he said, had been raised to levels they could not afford. In his view, elderly people were particularly vulnerable to high rents because many of them live on fixed incomes and were too proud to appeal for help. "For all these people rent increases are insufferable. And William Davis' rent review boards will do nothing for these people because they can't wait for the courts to set their rents for them", he said.[97]

In an election stop the same day in Windsor, the NDP leader was critical of the provincial government's Ontario Housing Corporation (OHC). "I think the first corporation to which rent controls should be applied is the OHC".[98] He cited a case of a couple - pensioners - living in an OHC apartment project in Windsor who had their rent raised September 1 by 90% - to $110 from $58 a month. (This is a good example of a large percentage increase on a very low absolute level of rent. Even after the increase the rent was almost certainly a bargain.)

Lewis told supporters that "the Tories and the Liberals are now fighting on our ground". He did not think that voters would overlook "the death bed repentence" of the Conservatives. "Every time Premier Davis makes another campaign announcement he reminds the electorate of the failures and neglects of the last four years." Lewis labelled the Liberal policies "thread-bare, never documented, never substantiated. It is hard to choose a party whose campaign has consisted primarily of confusion and malice."[99]

The NDP leader also tackled the UDI, calling for an inquiry into rent increases charged by some of its members. "I would like to have their books opened ... Everyone earning less than $10,000 a year who lives in this sort of Urban Development Institute apartment pays an excessive amount of income for rent."

13.1 The Oriole Road Incident

Lewis' defense of the elderly coincided with the eviction of elderly tenants by owners of two apartment buildings on Oriole Road in Toronto. The residents, some of whom had lived there since 1957, were given until October 31 to vacate. Fearing that the eviction would trigger a mass wave of tenant evictions in Toronto, Mayor David Crombie talked with the Premier and his staff on September 11 to see if anything could be done.[100]

Earlier that day in London, Premier Davis had affirmed that landlords would still be free to raise their rents between the time tenants moved out and new ones moved in, although he expected most probably wouldn't do so. The Premier stated, "In the question of new leases tenants have a free choice; it's up to them [to decide] whether they move in or not. There is nothing for the boards to review because it's a new lease",[101] The boards would not act on behalf of citizens who were about to become new tenants and felt rents were exorbitant.

"But a citizen can always go on his own, taking a landlord to court under the Unconscionable Transactions Act", he said.

Davis said most landlords would be discouraged from unjustly raising rents between old leases and new ones, but promised a strengthening of the Landlord and Tenant Act to assure security of tenure -- meaning that a landlord could not evict a tenant on a trumped-up excuse to increase the rent.[102] (This concept of economic eviction is discussed in Stanbury, 1985a, Ch. 3.)

13.2 The Ontario Housing Corporation Advertisement

On September 13, less than a week before the election, the Ontario Housing Corporation, a provincial Crown corporation, placed an advertisement in several newspapers, including the Ottawa Citizen. It advised tenants to write to the Ontario Ministry of Municipal Affairs and Housing if they believed they had fallen victim to an unfair rent increase since July 29, 1975. The ad also advised tenants that the proposed rent review boards, when established after the election, would give "first priority to all complaints" reported in this manner. The ad was apparently aimed at assuaging the fears that cases of rent gouging which occurred before the establishment of the boards would simply be lost in the expected flood of new cases. Tenants were assured that the review process would be paid for by the government. The Minister's name appeared at the bottom of the ad.

The ad immediately sparked a political brouhaha because the opposition parties saw it as partisan. The PCs denied responsibility for the ad, arguing that the response to it was so slight that there wasn't really a problem. However, the matter was referred to the Ontario Commission on Election Finances and Contributions. Although the Commission found that the ad violated the spirit of the government's new election legislation, it declined to order the

Conservative Party to pay the Ministry back the $13,669 cost of the ads, much to the displeasure of the opposition parties.[103]

14.0 ELECTION DAY

Election day, Thursday, September 18, dawned overcast with rain throughout the province. Soon after the polls closed it became clear that after 32 years the Conservative Party's hegemony in Ontario had been severely challenged. Electors across the province had voted as many experts had expected, keeping the Tories in office, but holding them on the tight-rope of minority government with only 51 of 125 seats. But, to the chagrin of many so-called "expert" analysts, the shift in voters' preferences did not benefit the Liberals under Robert Nixon. They obtained 35 seats, up from 20 in 1971. The biggest surprise was the NDP which doubled their number of seats from 19 to 38 and became the Official Opposition.

Interim polls done before and during the election campaign confirmed that vast numbers of the voting public put off making up their minds until the last seven to ten days before election day. What they saw at the start of this crucial period was a "slanging match" between Davis and Nixon. The leaders were described by one newspaper, respectively, as a "rustic in mod glasses and a nitpicker in a stuffed suit".[104] Consigned to third place by the polls and nearly all the prophets, the NDP profited immensely from Stephen Lewis' masterly campaign. Hitting a few sensitive issues hard while maintaining an air of reasonableness and moderation - in contrast to the acrimonious battle between the Liberals and the Conservatives - Lewis brought the NDP to its strongest ever position in the Ontario Legislature.

The popular vote was much more evenly distributed than the number of seats:

	PC	Lib	NDP	Other
Number of seats won in 1975	51	35	38	1
% of the popular vote	36.1	34.4	28.9	0.6

Although the PC's won only 1.7 percentage points more of the popular vote than did the Liberals, they won 51 seats to the Liberals 35. Even more surprising was the fact that although Nixon's party polled nearly six percentage points higher in the total popular vote than the NDP, the NDP won three more seats than the Liberals. The Liberals, according to the Ottawa Citizen, were dogged by the "slanging match" debate, the rain (Liberal voters, usually less committed, were discouraged no doubt by the inclement weather), and the resignation on September 11 of finance minister John Turner from the federal government.[105]

The vote appeared to reflect a mandate for rent controls from the electors of the major urban ridings, particularly Metro Toronto (see Table 7-1). In Metro while both the Conservatives and the Liberals lost seats, the NDP doubled the number of seats it won over the 1971 election.

Table 7-1

Number of Seats and Percentage of Vote in Metro Toronto, by Party, 1971 and 1975 Elections

Party	1971	1975	% vote in 1975
Progressive Conservative	16	13	36%
Liberals	3	2	31%
New Democratic Party	7	14	32%
TOTAL	26	29	100%

Source: Ottawa Citizen, September 20, 1975.

The NDP was able to gain more seats than the PCs with a smaller popular vote. The Liberals, who obtained 31% of the popular vote in Metro, obtained only two of 29 seats in 1975.

Accounting for the NDP's success, especially in Metro Toronto, Stephen Lewis told the legislature two months after the election:

> I was utterly amazed at the way in which the question of rents took hold during the campaign... It was not by some kind of predetermined design and careful calculation that the rent issue blossomed into such a major political furore. I was as surprised about it as many Tories were when it occurred.[106]

Later, in an interview with Toronto Life magazine, he explained the significance of the "Honderich Intervention", so named for the publisher of the Toronto Star whose editorial board, predictably, had chosen to endorse the Liberals.

> The great and savage irony is that [Toronto Star publisher] Beland Honderich, in the middle of the night, came to the conclusion that the possibilities for circulation improvement in his competition with the Toronto Sun for the apartments of Toronto, by playing rents to the hilt, was more important than the Liberal Party. And so he gave to the New Democrats, at the psychological turning point of the campaign, an issue played to the point of obsession, day in and day out for six days, as though the Liberals didn't exist.
>
> I could not believe what was going on. I remember saying "Jesus Christ! I don't understand it! But if they want it, we'll feed it to them!" And I phoned up our marvellous research people and I said, "You find me every rent case in Ontario." That's what won us 14 seats in Metro; the apartments opened up, right across the city. And Honderich did it (Hailwood, 1975, p. 23).

The response of the Federation of Metro Tenants' Association to the election results was positive. Its chairman, Alvin Faught, felt that a Conservative government dependent on opposition support would be more responsive to the group's proposals than it had been in the past. "We'll be much happier with a minority government. All parties will be looking at exactly where people live and what their needs are."[107] He said the issues of rents and tenants' rights were paramount in the campaign and expressed hope that Housing Minister Donald Irvine would react more positively to the Federation's proposals. Faught planned to write to Premier Davis suggesting an early meeting with the Minister to discuss changes in the Landlord and Tenant Act which the PCs had promised on July 30th.

The Federation wanted a board set up to adjudicate disputes between landlords and tenants rather than merely to impose fair rents as Davis had suggested during the election campaign. There should be legislation guaranteeing a tenant's right to renew his lease, provided he pays his rent and conducts himself properly, and penalties for landlords who fail to maintain their properties, he said.[108]

While they retained power, the Tories under Bill Davis as a minority government were now highly vulnerable to pressure from the opposition parties, both of which favoured a stronger form of rent controls. The stage was set for action rather than promises on rent controls.

Notes to Chapter 7

1. "NDP to switch election policy and attack PCs, Lewis says," Globe and Mail, August 11, 1975.

2. "Controls don't produce apartments," Globe and Mail, August 13, 1975.

3. "Rent control lessons" (editorial), Globe and Mail, August 14, 1975.

4. "Davis jabs Nixon on integrity issue, arithmetic," Globe and Mail, August 19, 1975.
5. "Davis promises action to stop rent-gouging," Toronto Star, August 19, 1975.
6. "In Yorkview, it's youth against Young," Toronto Star, August 25, 1975.

7. Tory Candidate assails Davis' plan for rent boards," Toronto Star, August 29, 1975.

8. Ibid.

9. "Candidates lunch between bites," Globe and Mail, August 30, 1975.

10. See "Education and homes come first Nixon says," Toronto Star, August 26, 1975.

11. See "Liberals, PCs favour rent review, NDP, Communists want controls," Globe and Mail, September 5, 1975.

12. See "50% rent jumps shock audience at Lewis meeting," Globe and Mail, September 4, 1975; "'Shameless' landlords increased rents 50% Stephen Lewis claims," Toronto Star, September 4, 1975.

13. See for example the series of analyses of the races in each Metro Toronto riding printed in the Toronto Star during this period. Nearly all the candidates--PC, Liberal, NDP--mention rent controls as a major issue and many of them saw it as the key issue in the election.

14. Quoted in "Gouging landlords may face courts," Toronto Star, September 2, 1975.

15. "Davis to give rent board authority to sue gougers," Globe and Mail, September 3, 1975; "Gouging landlords may face courts," Toronto Star, September 3, 1975.

16. See, for example, Manthorpe (1974, pp. 264-67).

17. See note 15.

18. See "NDP leader skeptical of Davis' rent board," Globe and Mail, September 3, 1975; "Suits against rent gougers ludicrous Lewis claims," Toronto Star, September 3, 1975.

19. Toronto Star, note 18.

20. Globe and Mail, note 18.

21. Toronto Star, note 18.

22. Ibid.

23. Ibid.

24. Ibid.

25. Ibid.

26. Ibid.

27. "50% rent jumps shock audience at Lewis meeting," Globe and Mail, September 4, 1975.

28. [get cite]

29. [get cite]

30. See "Rent Gouging: Who's telling the truth?" Toronto Star, September 6, 1975.

31. "50% rent jumps shock audience at Lewis meeting," Globe and Mail, September 4, 1975.

32. "Lewis rent gouging cases not typical, the landlords say", Toronto Star, September 6, 1975.

33. Ibid.

34. Ibid.

35. Ibid.

36. "Lewis renews gouging charge--and tenants agree," Toronto Star, September 6, 1975; "Lewis stands by charges of outrageous rent boosts," Ottawa Citizen, September 6, 1975; "Lewis fuels rent gouging issue, tells of more big increases," Globe and Mail, September 6, 1975.

37. They were Cadillac-Fairview, Greenwin, Lawrence Construction, Belmont, Falco Property Management, Peel Village Development, NHD Developments, Farlinger, Meridian, Leedale Construction and Del Zotto.

38. The rate of rent increase in the North York study did not agree with the Housing Ministry's survey, which indicated an "average annual increase" in Metro Toronto of only 11.7%. According to the Ministry 80% of increases in Metro were less than 15% a year. See "Are Metro tenants gouged by landlords?" Globe and Mail, September 5, 1975.

39. Ibid.

40. The report commissioned by the Ministry of Housing endeavoured to find the average annual rate of increase in rents, which was 11.7%, while the students only asked for the amount of the last increase, whether it came after a previous increase a few months back or after a one- two- or three-year lease. They reported that the average rent increase was 16.9%. See "Wanted: rent information" (editorial), Globe and Mail, September 6, 1975.

41. See "Rents in Metro up 11.7%", Globe and Mail, December 3, 1975.

42. See "Force Speculators to build homes tenant urges," Toronto Star, September 5, 1975.

43. "Rent controls may be unavoidable" (editorial), Toronto Star, September 5, 1975.

44. Toronto Star, September 6, 1975.

45. "High mortgage rates crippling us -- developer", Toronto Star, September 8, 1975.

46. Ibid.

47. "Seek rent controls report urges city", Toronto Star, September 6, 1975.

48. Ibid.

49. See note 42.

50. Ibid.

51. Ibid.

52. "Lewis stands by charges of outrageous rent boosts", Ottawa Citizen, September 6, 1975.

53. See "Davis and Lewis clash in debate on farmland loss", Toronto Star, September 8, 1975.

54. See "Lewis ridicules plan for reviewing rents in debate with Davis", Globe and Mail, September 8, 1975.

55. Ibid.

56. Ibid.

57. Ibid.

58. "Rent for widow, 85, now 93% of her income: Lewis steps up attack", Toronto Star, September 7, 1985.

59. "NDP predicts rent backlash", Ottawa Citizen, September 8, 1975.

60. This is a substantial overestimate. See Table 5-1 in Chapter 5.

61. "Lewis to cite more cases of rent gouging", Globe and Mail, September 8, 1975.

62. After the election the UDI questioned 10 of the 80 cases of rent gouging the NDP leader cited during the election campaign. In what they termed "One of the most shameful of Lewis' examples", they denied that a Mrs. "H" faced an increase that would take 93% of her income. According to UDI spokesman Eric Lebourdais, the woman "lives quite comfortably and does a considerable amount of travelling". He added that she renewed her lease and the increase was only 12%. See "Lewis stands behind charges of rent gouging", Toronto Star, October 17, 1975.

63. See note 61.

64. Ibid.

65. Toronto Star, note 62.

66. "Rent boards to get temporary rollback power", Globe and Mail, September 9, 1975.

67. Ibid.

68. Ibid.

69. Ibid.

70. Ibid.

71. Ibid.; "Davis in retreat on rent boards Lewis claims", Toronto Star, September 9, 1975.

72. "Davis promises rent aid, more income for elderly", Globe and Mail, September 9, 1975.

73. "Davis promises rent subsidies for pensioners", Toronto Star, September 9, 1975.

74. See note 72.

75. See note 73.

76. "3 Tory dissidents back rent move" (editorial), Toronto Star, September 10, 1975.

77. Ibid.

78. Ibid.

79. "Davis in retreat on rent boards Lewis claims", Toronto Star, September 10, 1975.

80. "Lewis gloats over PC switch", Ottawa Citizen, September 9, 1975.

81. "Davis 'flip-flopped' on rent controls, Lewis says", Globe and Mail, September 9, 1975.

82. Ibid.

83. "Limit rent raises to 12%, Lewis says", Toronto Star, September 9, 1975.

84. See note 81.

85. "Sisters spend over half income on rent: Lewis", Toronto Star, September 9, 1975; note 80.

86. Ibid.

87. "Rent boards to get temporary rollback power", Globe and Mail, September 9, 1975.

88. "Tenants becoming desperate, Mrs. Rowlands says", Globe and Mail, September 11, 1975.

89. Ibid.

90. "Landlords frightened Tory says", Toronto Star, September 12, 1975.

91. See note 88.

92. See note 80.

93. "Solid campaign by NDP", Globe and Mail, September 11, 1975.

94. See, "Lewis hammers away at four basic election issues", Toronto Star, September 13, 1975.

95. "Nixon sets no-holds-barred tone for his campaign", Toronto Star, September 13, 1975.

96. "13 landlords named by Lewis as rent gougers", Toronto Star, September 10, 1975.

97. "Lewis says couple pay 72% of income on rent", Toronto Star, September 13, 1975.

98. "Lewis: 'We'd like to build houses'", Ottawa Citizen, September 13, 1975.

99. Ibid.

100. "Man and wife lose apartment after 18 years", Toronto Star, September 11, 1975; "Basic security for tenants" (editorial), Toronto Star, September 12, 1975; "Crombie, Davis to study evictions", Toronto Star, September 12, 1975.

101. "Rents can rise between leases, Davis says", Globe and Mail, September 12, 1975.

102. Ibid.

103. "Notice to Tenants", Ottawa Citizen, September 13, 1975; "Davis won't order PCs to pay for cost of ad", Toronto Star, November 4, 1975.

104. "Minority rule could last long in Ontario", Ottawa Citizen, September 19, 1975.

105. "Debate, Rain, Turner All Hurt Liberals", Ottawa Citizen, September 20, 1975.

106. Ontario Legislature Debates, November 18, 1975, p. 730.

107. Quoted in Canadian Annual Review of Politics and Public Affairs 1975, ed. John Saywell (Toronto: University of Toronto Press, 1976), p. 141.

108. "Tenants hope humbled Tories will listen now", Toronto Star, September 19, 1975.

Chapter 8

RENT CONTROLS: FROM CAMPAIGN PROMISE TO ENACTMENT

1.0 INTRODUCTION

We now outline the major elements in the political history of rent controls in Ontario in the three month period between election day and the enactment of controls in mid-December 1975.

- September 22: Housing Minister Donald Irvine reiterated his position that rent controls should be a part of a comprehensive federal program of wage and price controls.
- October 6: Premier Davis met with Stephen Lewis and Robert Nixon to work out a compromise on the rent review legislation which the Premier said wouldn't involve "total rent control". He stated that "we are looking at a solution where the tenant will be fully protected without totally inhibiting housing development". However, both Nixon and Lewis said that the PC's proposals as outlined during the campaign were unacceptable.
- October 7: Premier Davis shuffles his cabinet. Donald Irvine becomes provincial secretary for resources and John Rhodes becomes Minister of Municipal Affairs and Housing. The new minister stated he was not committed to local rent review boards as such. The government was searching for "something better". Mr. Rhodes also said that "flat out" controls like those in B.C. were not the answer. Rollback powers also seemed doubtful, but it was "always possible" that the legislation would be retroactive.
- October 8: Premier Davis insisted that his (minority) government was not committed to setting up rent review boards, but only to some sort of "mechanism" to protect tenants from unjustified rent increases from July 30. There may be "better methods" involving "less bureaucracy, less public expense".
- October 10: North York Mayor (and defeated PC candidate) Mel Lastman urged the Premier to take immediate action on rent controls saying that the Premier had "promised the people rent review boards in the election [campaign]". (The Legislature is scheduled to open on October 28.)
- October 13: Prime Minister Trudeau announces a national program of wage and price controls to be administered by the Anti-Inflation Board. The Liberal Party thus reversed its position during the campaign leading to the general election on July 8, 1974.
- October 28: The Ontario Legislature opens; the Speech from the Throne includes a vague proposal regarding rent regulation.

- October: The Community Review and Research Group of the Social Planning Council of Metropolitan Toronto publishes a 50-page report on rent controls. It recommends local rent control boards be set up in Metro Toronto and that a ceiling of 40% be imposed on rent increases, with the onus on the landlord to justify any higher increases based on higher costs.
- November 6: Bill 20, legislation to enact rent controls in Ontario retroactive to July 29, 1975, is given first reading.
- November 14: Bill 26, amendments to the Landlord and Tenant Act, is given first reading.
- November 20: Bill 20 is introduced for second reading and referred to the Select Committee on Bills 26 and 20.
- December 1-5: Public hearings were held in Toronto. Over 108 Briefs were received by the Select Committee from interested groups -- mainly landlords. After the hearings the Select Committee reported back to the Legislature and Bill 20 was referred to the Committee of the Whole House.
- December 16: The Committee of the Whole House reports with amendments to Bill 20. Bill 20 is given second reading.
- December 18: The rent control bill (Bill 20) and the amendments to the Landlord and Tenant Act (Bill 26) are given third reading and Royal Assent. The controls legislation is retroactive to July 29, 1977 and is to expire on August 1, 1977. Rent increases are limited to 8% per year.

To summarize, the PCs appear to have believed, and perhaps they had polls on this issue, that it was necessary to promise some sort of scheme to control rent "gouging" during the 1975 election campaign. Re-elected as a minority government, the PCs would almost certainly have led to introduce some form of controls even if they had not promised to do so during the campaign. Minority governments usually have to be more "responsive" to the demands of opposition parties. Hence, the party's longstanding policy against rent controls -- the "socialist" approach to the problem of soaring rents according to Housing Minister Donald Irvine -- was abandoned.

2.0 THE PROSPECTS FOR THE MINORITY GOVERNMENT

After the election of September 18, 1975 Premier Davis faced two major problems. First, having lost five cabinet ministers to retirement and three others in the election his Cabinet was in need of restructuring. His second problem revolved around the difficulties of making minority government work, at least until the polls indicated he could win another general election. Considering the rebuff the PCs had suffered at the hands of the electorate, the Premier would probably be in no hurry to call an early election.

Perhaps the thorniest problem facing the Premier in terms of making his minority government work was the content of the legislation to set up the rent review boards he had promised in the campaign. Both the Liberals and the NDP, as we noted in Chapter 7, had been sharply critical of his proposals. One enormously controversial point was the question of whether landlords would be allowed to make tenants pay the additional costs of refinancing buildings in order to invest in other properties.[1] NDP Leader Stephen Lewis had said that such refinancing couldn't be considered a legitimate reason for raising the rent.[2] Nevertheless, the Premier was confident he could reach an agreement with one or both of the opposition parties when the legislation was drafted. "I'm prepared to provide leadership," the Premier told supporters on election night. "I'm not prepared to compromise my principles".[3]

Four days after the election a federal-provincial meeting of housing ministers was held in Ottawa. Both Ontario's Donald Irvine and Ed Tchorzewski, Saskatchewan's housing minister, expressed opposition to provincially-imposed rent controls.[4] Irvine reiterated his support of rent controls only if they were part of a comprehensive federal program of wage and price controls. "I'm still not in favour of overall rent controls. You can't have piecemeal controls and beat inflation at the same time," he said.[5] He reaffirmed his view that the courts were the body best equipped to rule on rents, but added that his position could change if the economic picture changed.

After a Cabinet meeting on September 24, Premier Davis continued to express confidence that the Legislature would pass his minority government's proposal for rent review boards with little change in its original concept, which itself was not spelled out in detail during the election campaign. "We're looking at the mechanics of the legislation now," he said.[6]

On October 6, Davis met with both Stephen Lewis and Robert Nixon to work out a compromise on the rent review legislation. After the meeting, the Premier stated that his minority government was putting together a compromise rent control package which he hoped would win the approval of the opposition parties. He expressed hope that they would examine the new proposals "before taking firm measures against the government." The Premier refused to divulge details of the new plan, but commented that it wouldn't involve "total rent control" which, he said, would curtail apartment development. He said, "We are looking at a solution where the tenant will be fully protected without totally inhibiting housing development."[7]

Both Nixon and Lewis had stated that the government's rent control proposals as outlined during the election campaign were unacceptable. Lewis told reporters again after the meeting with the Premier that the NDP would not support those proposals while Nixon described them as "needlessly complex". Lewis stated that the rent issue played a key role in NDP success in the election and that the party's position "would not likely subside just because of a minority government."[8]

Asked if the Liberals would abstain from a vote that could defeat the Government and force an early election, Nixon stated, "we realize our responsibilities in that respect." A senior Liberal member of the legislature added, "we want to avoid an election until we have our new leader, but we don't want to appear to the public to be selling out."[9] (Robert Nixon was to announce his resignation as party leader on October 23, 1975.)

2.1 A New Minister of Housing

On October 7, Premier Davis announced a cabinet shuffle in which Donald Irvine was moved from the housing ministry to become provincial secretary for resources. An important factor in dumping Irvine was the history of stubborn confrontations between Irvine and the NDP in the previous legislature. Irvine, who remained a steadfast foe of rent controls to the end, was replaced by John Rhodes. He was considered the Cabinet's best salesman, a minister who could handle opposition criticism and bend when necessary.

Shortly after being sworn into the Cabinet, Mr. Rhodes took issue publicly with Premier Davis' promise of rent review boards. Although he said he agreed with "some form of rent control", he told reporters that rent review boards "would set up another level of bureaucracy at the municipal level," and that he was not sure such an approach was the answer.[10] "I want to look at this first. If there's something better, I want to try that ... We're committed to the boards or something better."[11]

The new minister said he had not talked the matter over with Mr. Davis when the Premier offered him the housing portfolio on October 1. When questioned about the apparent disagreement on policy, Rhodes commented, "I feel I'm the minister now. I'm not going to go running to Mr. Davis' office over everything. The Cabinet will either accept my ideas or they'll be thrown out." [12] When asked by a reporter what his ideas were, Rhodes would not say, although he commented that there were "several options" instead of the rent review boards. According to the minister, however, "flat out" rent controls like those in British Columbia were not the answer either, because that type of regulation would drive developers out of the housing market. Rollback powers also seemed doubtful to the new minister. Rhodes said that it was "always possible" that what he and the Cabinet eventually came up with would be retroactive. "I'm not saying it will, but it's possible."[13]

According to the Globe and Mail, a source in the Ministry of Municipal Affairs and Housing speculated later that Rhodes' references to municipalities' powers to request the boards under the rent review proposal might mean the new minister did not want the procedure operated at the municipal level. Instead, it was suggested that the minister might favour a provincial review board. According to the source inside the Housing Ministry, the former Minister, Donald Irvine, fought controls consistently. Apparently it was not his idea to introduce even the original rent review proposal, but he lacked political power in the Cabinet. Nevertheless, Irvine commented on October 7 that he was "quite prepared to go forward" with rent review if he had remained Minister of Housing. "But it is rent control. There's no doubt about that."[14]

Rhodes said he thought rent gouging was primarily a problem in large cities until he gained more experience during the election campaign. But he said cases were beginning to turn up in his home town of Sault Ste. Marie. He promised "something on rents very early" in the legislative session beginning October 28. Later the same day Premier Davis said he would "stand by the commitment" made during the election campaign. According to the premier, there was "a feeling" that rent review boards "may be the only way to go, but the vehicle is always open to review and improvement." [15]

At a press conference the same day, NDP leader Stephen Lewis said he welcomed Rhodes' appointment to the housing portfolio, but was surprised by the new minister's comments on rent review boards. "He's engaged in a remarkable shift from the premier's stand. He took the central position of the premier's campaign and discarded it," Lewis stated.[16] Alvin Faught, commenting on behalf of the FMTA, said he was "bitterly disappointed" by Rhodes' statement. "The implication I got from his tone of voice was 'to hell with tenants.' I hope I misunderstood him."[17]

2.2 Backing Away From Rent Review Boards?

On October 8 the Premier insisted that his government was not committed to setting up rent review boards, but only to some sort of "mechanism" to protect tenants from unjustified rent increases. Angered by the wording of newspaper articles which he said made it appear he and his Housing Minister disagreed, Mr. Davis repeatedly defined the Government's commitment as being to protect tenants, not specifically to review boards as the mechanism to do so.

> My own position has not changed ... We have stated that the mechanism we will be developing is the rent review process. The Minister has indicated there may be other methods that could accomplish the same objective in slightly different form. I can't tell you what the alternative way may or may not be.[18]

The Premier left a meeting of caucus members and defeated Conservative candidates twice to state to reporters that he and Mr. Rhodes did not disagree on the matter and that his statement the day before was not a "rebuff" of Mr. Rhodes as a Globe and Mail headline had stated. "We are committed to a program to protect tenants from July 30 on from unjustified rent increases."[19] The "traditional approach" has been with rent review boards, but he told reporters they would "surely acknowledge that if we can devise a better method, we should bring it in." The Premier stated that a "better method" meant "less bureaucracy, less public expense."[20] "If there is no better way, then it will be, by and large as discussed during the campaign," he said, adding that alternatives to rent review boards were not brought up during the election campaign because he was not aware of them. "I don't know what they may be yet. Neither does the Minister in terms of actual proposals to put before Cabinet."[21]

The new Housing Minister also left the same caucus meeting to tell reporters that it was his desire to come up with something "more stream-lined" than rent review boards. The alternative would not mean -- as he said the boards would -- "a bureaucracy being built up at the municipal level" and involvement of the courts under the Unconscionable Transactions Act. The Minister intimated that a single review board at the provincial level "may be" a more efficient alternative. He concluded that if there was an impression of a difference of opinion between himself and the Premier it was because "I phrased my words poorly."[22]

A day later (October 9), both the Premier and the Housing Minister continued to refuse to discuss alternatives that they thought might be superior to rent review boards. "I have one specific thing in mind" Rhodes stated in an interview, adding that he wanted to discuss whether the plan was workable with his cabinet colleagues before releasing any details. "I don't know why the press is so hung up on the Unconscionable Transactions Act and rent review boards. Because something is said during an election campaign, doesn't mean there isn't anything else."[23]

Stephen Lewis tried to account for the Housing Minister's remarks by suggesting that Rhodes may have wanted to assert his independence. However, an NDP official suggested that the minority government was trying to create a smoke screen to hide the fact that it had to borrow directly from opposition party proposals on the rent issue. NDP researcher Hugh Mackenzie commented that Davis and Rhodes might have been playing "some semantic game. I suppose there would be some advantage to them if they can come out with something else - using different language."[24]

North York Mayor (and defeated PC candidate) Mel Lastman urged the Premier to take immediate action on rent controls. Concerned by the latest statements of both the Premier and the Housing Minister, Lastman stated that "it's not something he [Davis] can toy with. He promised the people rent review boards in the election and he can't stall on them now. People have to have confidence in their politicians and their promises."[25] According to Lastman, "the biggest problem in North York is still rent control. I have no power at this moment to do anything about it, but we must have fast action." The Mayor could not see any effective alternative to rent review, but said he was willing to look at any provincial proposal. "I don't mind seeing something better - providing it will protect people from rent gougers."

Meanwhile, other municipal politicans continued to press for action on the rent problem. York alderman Ben Nobleman, for example, requested that the York Council urge the government to set up rent review boards when the Legislature began sitting on October 28.

3.0 FEDERAL WAGE AND PRICE CONTROLS

On Thanksgiving evening, October 13, 1975, Prime Minister Pierre Trudeau announced the imposition of wage and price controls in a nationally-televised speech (Maslove & Swimmer, 1980). During the previous general election campaign Trudeau had ridiculed Tory leader Robert Stanfield's proposal to legislate wage and price controls with the phrase, "Zap, you're frozen". As one facet of the program Trudeau asked the provinces to implement rent controls on existing rental accommodation. Although the federal government's announcement initially engendered widespread confusion, it was warmly received by the Conservative government in Ontario. According to the Toronto Star, by controlling wages and prices Trudeau took the Davis government "off more hooks than you'll find in a fisherman's tacklebox".[26] It gave the province a stock answer to the questions of soaring rents and pay demands by doctors, teachers and civil servants.

However, the announcement initially threw the Ontario Housing Ministry into confusion: Donald Crosbie, the Ministry's new deputy minister, commented that Trudeau's speech gave "no specific guidelines" concerning rents. According to the Deputy Minister there were three possible interpretations of the "vague" outline offered by Trudeau:[27]

- the annual profit made by landlords cannot exceed 10% a year;
- landlords cannot raise the rent more than 10% a year; and
- any rent increase has to be tied to the increases, or decreases, in operating costs.

Crosbie stated that the legislation would have to be clarified in Parliament before the Ministry could make any policy announcements.

Rents were not automatically subject to the federal wage and price guidelines. Constitutionally, the provinces have exclusive authority over landlord and tenant matters. Ontario had to enact its own legislation to control rents.

Developers found fault with the wage and price control program the day after the Prime Minister spoke. Peter Farlinger of the UDI stated that he was "not convinced" that any kind of controls would work. Nevertheless, the UDI would "fully co-operate in exercising restraint for a temporary period ... The industry has said before it would be pleased to co-operate with general restraint guidelines," he said. Farlinger anticipated problems in administering controls on leasing arrangements because leases cover projected costs "and there's no way a landlord can tell what that increase will be."[28] Another developer, Lawrence Shankman, president of Consolidated Building Corporation, said he expected the new restraints would allow increases higher than current increases. He also commented "the thing that bothers me is that the government, in trying to get into constraints, is creating a whole new layer of bureaucracy to police this which will cost the taxpayer a fortune."[29]

Tenant groups, however, expressed more faith in the federal guidelines. "It's a good start - not stringent enough, but a move in the right direction" stated Sam Wagman, president of the North York Homeowners' and Tenants' Association.[30] The president of the Federation of Ontario Tenants' Association said Ontario Housing Corporation units, occupied by senior citizens, had increased by more than 10% each year "and I hope this new legislation will stop it."[31]

The confusion surrounding the relationship between federal wage and price controls to be administered by the AIB was reduced somewhat by a policy statement of the federal Minister of Finance tabled in the House of Commons the day after the Prime Minister's television address to the nation. It stated:

> The provincial governments are being asked to undertake responsibility for implementing a program of rent control based upon the following principles: (a) increases up to a certain percentage would be permissible, (b) increases above this percentage must be justified on the basis of increased costs, (c) new structures where rents have not been established would be exempt from control for at least five years after completion of the building, in the event that rent control should be in effect for that length of time. This is to ensure an adequate incentive for construction of new rental accommodation.[32]

After a cabinet meeting on October 14 to discuss the wage and price control package, Premier Davis indicated that restrictions on rent increases would "not be far from the 10% limit imposed by the federal government on incomes."[33] The Housing Minister also confirmed that he would present a new system of rent restraints, quite different from the rent review boards, at a special meeting of the Cabinet in Sault Ste. Marie on October 15.

A cabinet committee headed by Ontario Treasurer Darcy McKeough was struck to report as soon as possible on the problems of implementing the federal restraint program. The committee was composed of Housing Minister John Rhodes, Attorney-General Roy McMurtry, Energy Minister Dennis Timbrell, Labour Minister Bette Stephenson, Education Minister Thomas Wells, Health Minister Frank Miller and James Auld, chairman of the cabinet management board.

4.0 TOWARD A NEW RENT CONTROL POLICY

The outlines of a new rent control policy emerged more clearly on October 15 after Mr. Rhodes briefed the special session of the Cabinet on his proposals for a way of controlling rents that would not require rent review boards. Rhodes stated after the meeting that landlords would have to seek permission for rent increases beyond a certain percentage, rather than have tenants bringing their complaints to the government. He stressed that the Province was willing to go along with the federal government's call for the provinces to help control rents, but was unclear as to the specifics of what Ottawa was proposing.[34] He stated that he had sent a telegram to the federal minister responsible for housing, Barney Danson, asking for a meeting to discuss the proposals. "This statement by Trudeau has changed the ball game a little," Rhodes said. Premier Davis also stated that the federal guidelines could change his government's proposals for a mechanism to control rents, but "the end product, the purpose, will still be the same - protecting the tenants from unjustified increases."[35]

However, in a brief to Premier Davis and Housing Minister John Rhodes, the FMTA asked the Province to freeze rents retroactive to January 1974 levels and to create a provincial commission to study the economic position of tenants. The brief stated that the only way to solve the problem of fair rents and security of tenure was through a program of tenants' rights, including the legal right to freedom of association, rent controls and revision of the Landlord and Tenant Act. The FMTA argued that there was no evidence that proposals affecting landlord-tenant relations were being considered by the provincial government and called for a two-day tenants' rights conference at the University of Toronto October 25 and 26 to push for immediate rent controls.[36]

On October 15, at a forum on rent control at the St. Lawrence Centre in Toronto, both opposition parties pledged to ensure that the Progressive Conservatives would bring in tough legislation to curb rising rents. Stephen Lewis stated that his party would not accept any legislation that didn't control rents and increase tenants' rights. Speaking for the Liberals, Margaret Campbell stated, "We could not permit ... a watered down version."[37] However, neither party would promise that it would bring down the Government if the Conservatives' rent proposals were unsatisfactory.

Alvin Faught of the FMTA continued to press for protection for tenants against eviction: "You can't have rent controls alone. Rent control without security of tenure would be completely unworkable." According to Mr. Faught, "allowing landlords an increase in rents without regulation when tenants are changed was an invitation for landlords to evict them so they could increase rents."[38]

Few at the meeting were pleased with Premier Davis' indication on October 14 that rent increases might be limited to 10% a year. Lewis said the 10% could become the minimum rent increase and Mrs. Campbell stated that the government should have been more concerned with rolling back existing rent increases. According to Alvin Faught, "there's no way a flat 10% increase is justified. In some cases zero is justified." Ian Hood of the Ontario Union of Tenants said the government should freeze all rents for up to three years. (This was at a time when the Consumer Price Index was rising at between 10% and 11% per year.)

Peter Farlinger, of the UDI, on the other hand, reiterated the association's stance against controls, saying that they would discourage construction of new apartments. Lewis countered this argument by saying that an

NDP government would take over construction if private developers refused to build. After the applause died down, Farlinger stated that government didn't operate businesses efficiently, and then accused Lewis of having been "misleading, inaccurate, sometimes deceitful if not downright dishonest" by citing four phoney cases of rent gouging during the election campaign.[39] Lewis denied the allegation and challenged the developers to open their books to independent scrutiny. He said, "If they don't find the gouging I'll apologize, but I want to see the books."

4.1 The Toronto Star Scoops the Tories

On October 18, 1975, the Toronto Star published a story describing a plan by the Ontario government to limit rent increases over a two-year period to about 10% a year and deny landlords the right of appeal.[40] Under the new plan, which was said to have had widespread support by Premier Davis' cabinet, rent review boards were deemed unnecessary. Apparently there was widespread concern in the PC ranks that rent review boards would involve a large and complex bureaucracy that would be politically difficult to dismantle. Some officials estimated that 300 boards would be needed across the province, requiring the hiring of hundreds of people at a time when the government was trying to reduce its payroll. The scheme, a closely guarded secret at Queen's Park, was to be introduced in the Legislature shortly after it opened on October 28.

Government officials were uncertain of the response to the program, but expected opposition from the NDP, some tenants' groups and developers. However, it was believed that the plan could be sold to the Liberals, who would support the minority Davis government.

The legislation, according to the Star, would be retroactive to July 30, but it would not apply to new apartment buildings (those built after controls were imposed) -- either on initial rents or subsequent renewals. However, landlords who had raised rents more than the allowable limit on existing rental accommodation since July 30, 1975 would be required to give tenants rebates. The government also planned to introduce legislation providing for greater tenant security, making it more difficult for landlords to evict tenants without just cause.

4.2 The Opposition Reacts

Reaction to the leaked plan by both opposition parties was swift. The next day both Lewis and Nixon demanded the Tories include some form of rent review system with any proposed rent increase ceiling. Without such a measure, the two leaders said, they might vote against the minority government, forcing a new election.

"We want rent controls. We want them very badly," Lewis stated. "But the way it is being approached [by the government] is opening the way to a whole series of injustices." Nixon stated, "We feel a rent review procedure is required and I know of no circumstances that would persuade us to leave that position." Both leaders argued that the big danger in setting an arbitrary percentage beyond which rents would not rise was that landlords would be able to raise their rents by that amount whether they needed to or not.[41]

Lewis stated that without review boards "the government is effectively raising minimum rent increases to 10% across the board - in many cases 10% may not be justified."[42] NDP studies of rent control in British Columbia and Quebec, he said, indicated increases in operating costs of from 5% to 7%. Lewis was particularly concerned about "the lack of any provisions to protect first-time tenants from increases well in excess of 10%." He also feared that some landlords would refuse to renew leases and increase rents with new tenants.

Liberal leader Robert Nixon warned the Davis government not to feel secure against the threat of defeat until the Liberal Party had elected a new leader in January 1976. "The convenience of the party will not come before the convenience and protection of the community," he stated.[43] The Liberals felt that by setting a specific percentage as the limit of a rent increase, the government was removing the possibility of individual assessment of cases by a rent review board. This was not only unfair to tenants, but in certain cases it could even be unfair to landlords.

Alvin Faught of the FMTA called the proposed 10% ceiling "a complete cop-out by the government. I am absolutely appalled that after making such responsible statements before the election Davis has pulled the switch."[44] He added that it was essential to have some type of watchdog group govern rent controls and he reiterated the FMTA's request that rent increases be rolled back to January 1, 1974, "which was when some landlords began gouging ...". He continued,

> Naturally we expect there should be some increases. We know about inflation - about fuel costs, hydro costs, maintenance costs - going up. But I think by and large, the landlords are taking advantage of the situation ... There has been an upsurge in rents every time there has been talk of rent controls. They should be made to open their books and justify any increases.[45]

The next day (October 20), the new Housing Minister clarified the Government's position by stating that landlords who wanted to argue for a rent increase beyond that fixed by the legislation would have to have some sort of tribunal before which they could make such requests. He said he hoped it would be a provincial body that could handle such appeals. But it could be the federal Anti-Inflation Board, he said. Mr. Rhodes also confirmed that Ontario draft legislation was ready to go before Cabinet and that he hoped to have it introduced to legislature "early in the session." No fixed percentage had been chosen up to that point as a rent increase limit, "although we have talked of 10% and even less than 10%."[46]

Despite indications from the government that its proposed controls would be retroactive, many landlords were sending out notices of rent increases in an effort to get the jump on the anticipated controls, according to the FMTA. "We've noticed in the last week there's been an increase in calls from people who just got increases and big ones ... landlords are trying to get in under the wire," Susan Tesky, an FMTA representative said a few days later.[47]

4.3 McKeough Delays Rent Controls

Speaking after a meeting of federal and provincial finance ministers on October 23, Darcy McKeough, the Ontario provincial treasurer, announced that Ontario's rent control legislation would be delayed several weeks on the chance that a national consensus on the problem would emerge. He said a short delay was warranted by the advantages of a uniform national program. According to the treasurer, the provincial housing ministers would be meeting to discuss rents. If there was general agreement, uniform legislation would be brought forward by mid-November. But if no consensus was forthcoming, McKeough said Ontario could go ahead with its own legislation. McKeough stated that he had agreed to delay Ontario's planned legislation without consulting the Housing Minister or the Premier, but expressed confidence that both were perfectly happy with his decision.[48]

Stephen Lewis, however, called the delay "utterly irresponsible" and stated that if Ontario wanted to amend its legislation in the national interest, it should do so after it was enacted. "I am just losing faith in the belief we will get anything," Lewis said. "I have no idea what's going on ... The fact of the matter is that rent controls cannot be a consensus."[49] According to the NDP leader, a ceiling on rent increases should not be applied uniformly across the country because the rental housing situation varied so widely from province to province. "I haven't seen so much confusion and indecision in this place since I was elected. I just don't know who's captaining the ship. I think ... the premier's word [should] be honoured by his cabinet colleagues ... they're just grasping after straws, which is not a very dignified way for a government to act."[50] Lewis continued,

> The legislature's much more fragile now than it was the night of the election. I'm much more anxious about the survival of it now. Election night, Davis was offering olive branches and everyone was grabbing the olives. They're creating a very fragile atmosphere in the legislature. Pressure's developing which shouldn't be there.[51]

Liberal leader Robert Nixon stated that he was "a little leery of a single approach working in all areas."[52] He commented, "for him [Davis] to back out [of rent review] and say the Liberals are going to have to support it is stupid. Nobody wants an election before Christmas. But we've established our position and we are going to keep it."[53]

4.4 The FMTA's Conference on Rent Controls

In an effort to maintain the visibility of the rent issue and to maintain pressure on the minority PC government, the FMTA sponsored a conference on rent controls the weekend before the opening of the fall session of the Legislature. Topping the list of demands articulated by the FMTA were security of tenure, housing courts, and a complete overhaul of the Landlord and Tenant Act, last revised in 1970. "Rent control without security of tenure would be completely unworkable," Alvin Faught stated. The FMTA pressed for automatic renewal of leases unless landlords could prove a tenant didn't pay his rent or caused vandalism. (More generally, see Stanbury (1985a, Ch. 3).)

Peter Farlinger of the UDI favoured mandatory one-year leases, but objected to absolute security. He said, "It seems rather one-sided, if I have the right to stay forever but at the same time can leave whenever I want."[54]

The FMTA also demanded immediate imposition of rent controls in the province. "We are not prepared to allow any more delay from a government which lost its majority largely due to ignoring tenants rights," said a federation statement.[55] The Federation called on Metro tenant groups to join forces to mount a telephone blitz of members of the Legislature in an effort to get the government to enforce a freeze on rents retroactive to January, 1974. It also called for formal support from labour organizations and urged Metro municipalities to pressure the government to bring in rent controls.

At the conference NDP leader Stephen Lewis promised that his party would pressure the Davis government for rapid action. "The NDP has not altered its position in any significant particular, except perhaps, to make our position even tougher than it was during the campaign," Lewis wrote.[56] He added that he wanted rents rolled back to sometime in 1974 and future increases geared to the landlord's costs. Although he had earlier opposed the Government's proposal of a 10% limit on increases, he said a percentage limit might be acceptable "as an interim and purely one-shot measure ... to make things less complex."[57]

Two days after the weekend conference the Metro Toronto Social Planning Council issued a 56-page report calling for immediate imposition of rent controls with a ceiling of 8% annually retroactive to January 1974. Describing Toronto's housing situation as "grim and desperate", the report claimed a 10% ceiling would raise rents unnecessarily for many. It was also critical of the Davis government's handling of the controversial issue:

> Many landlords are thought to have made large increases simply to beat back rent controls, their hope being that controls would not encompass a rollback. The provincial government bears a special responsibility here since its slow response to the rental housing problems and its dragging out of the rent-controls debate have undoubtedly provided this opportunity for the more unscrupulous element among all landlords.[58]

Housing Minister John Rhodes agreed with the report's contention that a maximum ceiling on rents would become the minimum increase under rent controls. "Everybody goes for the maximum. The maximum becomes the minimum," he said on October 27. The Minister also agreed that landlords had increased rents in anticipation of controls.

4.5 The Liberals in Disarray

On the eve of the opening of the provincial legislature, confusion broke out in the Liberal Party. On October 27 four federal Liberal cabinet ministers, including Barney Danson, the minister responsible for housing, addressed provincial Liberals in Toronto concerning the federal wage and price guidelines. In his speech, Danson cautioned both Ontario opposition parties not to defeat the PC minority government over the issue of rent review boards. The Minister stated that the idea of rent review boards was "too nebulous" and did not encourage construction of new accommodation. Instead, he said he preferred the Tories' proposal to simply limit rent increases to 10% a year. Fixed 10% rental increases meant that developers could budget accordingly, he said. "What we want to do is get as much rental accommodation on the market as possible. The only way to do that is to make it economically viable," he stated.[59]

After the meeting Danson told reporters, "I just think that people who are pushing rent review had better be very careful ... they don't apply themselves to the economics of housing".[60] Rent review boards would discourage developers more than rent controls because they would increase uncertainty. Rent controls set a fixed percentage increase, he stated, and "whatever the fixed figure is, the landlord knows the context in which he is working - and so does the tenant."[61] As a further objection to rent review, he said he could envision a situation in which a man with six children and a salary of $8,000 a year comes before a rent review judge and says he cannot afford his landlord's proposed increase. "The judge in all compassion, would have to agree with him. But why should the landlords - one sector of the economy - be made to assume what is the social responsibility of the whole of society?"[62]

Asked by reporters if he had already talked to Ontario Liberals about their support of rent review, he said, "No, this thing has just come up". Then, departing with an obviously perturbed Margaret Campbell, he announced cheerfully "I think we're going to talk about it right now".[63] Liberal MPP Margaret Campbell, author of the provincial party's campaign proposal for rent review boards, said later that Danson's stand would encourage the PCs to "continue fiddling while tenants burn".[64] Liberal leader Robert Nixon, however, said that the Liberals would continue to insist on rent review even if it brought down the minority government and forced an election. Two days later, after a six hour caucus meeting on October 29, Nixon admitted at a press conference that his party, which faced a leadership convention in late January, didn't want a provincial election before Christmas. "I might as well be frank", he stated, "It's not our intention to vote so there will be an election before Christmas unless it's a matter of principle. Surely there's got to be a meeting of the minds".[66] Nevertheless, he continued to emphasize that the Liberals were not ready to compromise their principles on the matter of rent control.

5.0 THE THRONE SPEECH

On October 28 the Progressive Conservative government outlined its proposed legislative program in a brief Speech from the Throne. The speech singled out inflation as a major concern, and reiterated Premier Davis' promise to co-operate with the federal government's wage and price controls, while renewing a pledge to restrain provincial spending and reduce the size of the civil service. The speech did not provide any details concerning the proposed rent control measures, but repeated campaign promises to provide security of tenure through rent control measures retroactive to July 30. The pledge to create a rent supplement program for low income senior citizens facing large rent increases since April 1975 was also repeated. (The Cabinet had met on October 23, 1975 to continue work on the rent control program in an effort to forge a workable compromise).[66] Davis said details of the new programs would depend on the outcome of a federal-provincial meeting on housing issues scheduled for November 3.

However, a grim Stephen Lewis said after the Throne Speech that the minority government would have a difficult time getting opposition support on the major issues it set out. "This is going to be a real test. If we make it through this, we'll be making it for a while. How much more fundamental can you get than rents -- or Hydro or energy?"[67]

Both Lewis and Nixon stated that they felt the minority government remained undecided on how to deal with rents. Since the government did not detail a plan to cope with the problem, Lewis said the NDP would unveil its own scheme for rent controls within the week. Nixon stated that the government's reference to rent in the Throne Speech was uncertain, indicating that it had not made up its mind about rent review.

5.1 The Tories Yield

With their minority government in jeopardy, the Tories announced the next day that they would compromise with the opposition parties. Housing Minister John Rhodes told the Legislature on October 29 that the government would provide an appeal mechanism rather than simply a ceiling on rent increases. According to the minister, "a rent review board would review rent increases within limits determined under the act."[68] The new legislation would contain guidelines for allowable rent increases, Rhodes indicated. However, he refused to explain in detail how the boards would work. "You could describe it as rent control with review and review with rent control. How about that?" Rhodes suggested.[69] He admitted to reporters he was being "a bit evasive" until the legislation was introduced, but stated that the percentage limit would be province-wide. There would be no municipal review boards, the government would appoint members of the boards and Metro Toronto would probably need more boards than Northern or Eastern Ontario. The boards would be "pseudo-courts where both sides could appeal", Rhodes stated.[70] Tenants who signed leases on or after July 30 would get refunds from landlords if the increases were too high under the terms of the legislation.

The government's proposal avoided a possible defeat in the Legislature, but in the process Mr. Rhodes contradicted Premier Davis. Davis had stated on October 28 that details of the government's rent control legislation would depend on the outcome of the federal-provincial housing minister's meeting scheduled for early November. However, Rhodes told the legislature the next day that "although the discussion of next Monday (the federal-provincial meeting) is important to the final form of the bill, I wish to state today that it will not change the basic principles of our proposed legislation."[71] The Minister also admitted he had created a certain amount of confusion with his comments on the day he was appointed housing minister. (On October 7 he said he thought he would come up with a better idea than rent review boards, one that would mean less bureaucracy. Premier Davis went along at that time, saying his commitment was not to review boards, but only to some type of mechanism to protect tenants.) In taking the blame, Mr. Rhodes said he was the one who "kicked the can over"; he had, to mix a metaphor, to "wear some of the horns for it." He just couldn't come up with anything better than review boards.[72] He had hoped to get by with a simple ceiling on rent increases, adjusted each year to reflect increases or decreases in landlords' costs. But he said that wouldn't have been equitable. The proposal detailed in Rhodes' statement was finally approved on the morning of October 29 by the Cabinet, although he said "bits-and-pieces" approval was gained during the previous month as the Cabinet discussed alternatives. The Minister denied that there was dissension in Cabinet over the issue. According to the Globe and Mail, he preferred to say there was a "keen interest - to say the least".[73]

5.2 The Opposition Responds

Both opposition leaders gave cautious approval to Rhodes announcement, although Stephen Lewis was sceptical about the details of the proposal. "I suppose it's a concession", he said, but added that he wanted to have the legislation "actually before me, so I believe it has permanence. Otherwise anything is possible. There have been so many changes in their rent control strategy - an infinite variety - that I will trust and believe only what I see in the legislation."[74]

According to Liberal leader Robert Nixon, the Government had "got back on the rails after vacillating so long" and he was happy to see the rent review board his party had fought for.[75]

The next day (October 30), the NDP announced a 12-point rent control program which would limit rent increases to 6% and require landlords to justify any increase above that both to tenants and to local rent review offices. Lewis told a press conference that he hoped his party, following its own ideas, would be able with the support of the Liberals, to change the government's legislation during clause-by-clause debate. He stated that he particularly hoped to have the legislation retroactive to an earlier date, to lower the 10% ceiling the Cabinet had been considering for rents and perhaps to change the composition of review boards and the provisions for security of tenure for tenants. Failing this, Lewis said the NDP might still "find a way" to support the Government bill.[76]

The Ontario NDP proposals were based on a report released by the B.C. Rent Review Commission several days earlier. Lewis called the 450 page report (Jaffray et al., 1975) a "lucid and impressive" collection of data from areas where rent control had been in effect. The B.C government had announced it would limit rent increases to 8% a year beginning January 1. Lewis stated that the report showed the following increases[77]

(1)	Operating costs	3.5%
(2)	Profits	1.6%
(3)	Taxes	2.9%
		8.0%

Not allowing an increase in profits in Ontario would mean that the Province could limit rent increases to 6%, covering both increased costs and higher taxes, Lewis said. The NDP's proposal included the following points:

(1) Rents could increase only to offset higher operating costs and taxes.

(2) A rent control system would be set up to encourage landlords and tenants to determine rents following that principle, but there would be a right of appeal.

(3) Rents would be rolled back to their level in December 1974 and 1975 rents would be calculated on the average increases in operating costs--estimated at 6% but open to change in the future. Excess rent paid in 1975 would be refunded in the form of a rent credit or in cash if the tenant had moved. There would be no appeal for this year only, because it would cause a "bureautic jumble."

(4) In 1976 there would be a 6% limit, subject to change based on new information. Tenants could appeal increases below the guidelines if they thought they were still unjustified, and landlords would have to appeal to exceed the guidelines.

(5) Landlords should "as a matter of course" justify any rent increases to tenants who could deal as a group with landlords and have access to their books.

(6) Rent offices would be set up in urban centres to investigate landlord-tenant disputes and determine rents. Municipal- ities would run rent offices by paying 25% of the cost.

(7) A provincial landlord-tenant tribunal would hear appeals of the decisions of rent offices.

(8) Tenants could be evicted only for just cause.

(9) The government and the rent offices would give out all information available on rent increases, operating costs and the rights of both landlords and tenants.

(10) Rent control would not apply to a building that was the landlord's principal residence and had only one or two rental units.

(11) To give owners of new buildings a reasonable return on their investment, the rent office or tribunal would approve a "fair rent". Landlords could raise rents up to that level without justifying the increases. (NDP housing critic Michael Cassidy said a fair level at the present time might allow an 11% increase because of high mortgage rates, but it would drop if the rate of inflation declined.)

(12) The Landlord and Tenant Act would be changed to provide for a model lease, rights and responsibilities for tenant associations, three month notice of rent increases, an end to adults-only apartment buildings and a requirement that maintenance standards be upheld.

Lewis said the NDP proposal could have a "very very strong influence" on the Davis government. When asked if he would vote against the government if enough of the program was not incorporated in the legislation, Lewis replied, "If you feel that you've made some fair gains, then you won't want to lose what you've gained".[78]

6.0 BILL 20: THE RESIDENTIAL PREMISES RENT REVIEW ACT

Finally on November 6, the Ontario government introduced Bill 20 which was said to put an 8% ceiling on rent increases.[79] According to the proposed legislation, tenants whose rent had risen by more than 8% since July 29, 1975 were entitled to an automatic refund until the end of the year. After January 1, however, both landlords and tenants would be allowed to appeal to rent review officers or ultimately to a single rent review board for either an increase or decrease in rent for the remainder of the period. The 8% limit would hold--subject to appeal--for leases signed up to August 1, 1976. Leases signed from then until August 1, 1977 would be subject to some other control figure, to be set by Cabinet according to landlords' current costs and partly based on figures allowed by rent control officers and the appeal board. Rooming houses, buildings in which four or fewer units were rented, luxury accommodation (rents over $500/month), single family dwellings, non-profit housing and new buildings (not occupied before January 1, 1976) were to be exempted from the proposed legislation. The controls, however, were to apply to dwelling units with a bathroom and a kitchen and also covered land used as a site for a mobile home. Premises rented without a lease were also covered, because the bill stated that a tenancy agreement could be "written, and or implied". Tenants were not to be allowed to sublet for more than the allowed rent and were not allowed to "charge any consideration" for subletting. This clause was included to prevent landlords from leasing their own apartments then subletting them to get around the controls. The bill defined any charges or increasing charges for parking, lockers, sauna baths or swimming pools, doormen, or maintenance services as increases in rents. This would eliminate "key money" as a way to get around the controls, the Housing Minister stated. Reduction in the level of maintenance provided for a rental building was also to be considered a rent increase.[80]

The companion piece of legislation to the rent control bill encompassed amendments to the Landlord and Tenant Act to strengthen security of tenure. Introduced by Attorney-General Roy McMurtry on November 14, the security of tenure proposals obligated landlords to justify before a judge why a tenant's lease was not being renewed -- see Stanbury (1985a, Ch. 3). Eviction was permitted if the landlord could persuade the court that the tenant was undesirable or that the landlord needed the apartment for his own family's use. Reasons for considering a tenant undesirable included non-payment of rent, vandalism, creating a nuisance, interfering with neighbours, overcrowding an apartment or breaking the rules of the apartment.[81]

McMurtry and Rhodes had met with Nixon and Lewis to discuss the two proposed bills. In political terms, the legislation appeared to ensure the survival of Davis' minority government. NDP leader Stephen Lewis was pleased enough with the bill to jokingly take credit for it in the House. "In the next election, we're running on our record," he told Premier Davis.[82] NDP members thumped their desks in approval after Bill 20 was introduced. Lewis stated that his party wanted some changes--more retroactivity, a lower ceiling, removal of the exemption for new buildings if possible--but supported the Bill in principle. Lewis concluded however, that "the government has moved so far in principle that I think it would be wrong for us to oppose it in principle. They have come a long way, when I think of the surprising steps which the government has taken on the road to rent review."[83]

The Housing Minister did not know how many rent review officers would be needed. A Ministry of Housing official, however, said Metro Toronto would need probably 25 to 30 and over 100 across the province.

In accounting for the proposed maximum increase of 8%, Rhodes commented that it seemed like a "middle of the road figure" that he hoped would be acceptable to landlords and tenants. He stated that it was "only a coincidence" that it was midway between the 10% the Cabinet considered and the 6% the NDP wanted. The Minister said the exemption made for buildings with four or fewer rental units was drafted due to government concern "that the market would dry up in rented duplexes and triplexes." He said, "We're going to have enough problems with this market as it is. You know it and I know it."[84] (At that time the Minister did not appreciate what a large fraction of rental units wre in buildings with four or fewer units. In June 1975 rental buildings in Metro Toronto with one to seven units accounted for 45.8% of all rental units. In 1981, 33.8% of all rental units in Ontario were in buildings with one to five units. See Stanbury and Vertinsky, 1985, Appendix B to Chapter 7.)

The provision that would now allow any appeals in 1975 would prevent "a huge backlog" for rent officers. The rent review board would operate in a fashion similar to the Ontario Municipal Board, sitting in different areas of the province to hear appeals from the decisions of the rent officers. In appeals, the onus would be on landlords to prove their increased costs justified rent increases, either above 8% or below that figure if they were challenged by tenants.

Sounding almost apologetic for having brought in Bill 20, Mr. Rhodes stated, "I don't think anything we have done here today is going to help new construction". He also said there was nothing to prevent a landlord from going out of business and boarding up his building, rather than going along with controls. He noted that this had happened with some buildings in New York. However, there were such strong feelings in the province that rent controls were desirable that the government felt obliged to introduce them and try to make them work. Rhodes commented that the government had received about 400 complaint letters since the election, "and the phones never stopped ringing" about controls.[85]

6.1 Pressure Group Reactions

The reactions to Bill 20 of the various groups involved in the issue were uniformly negative. Soner Rumm, president of the UDI said he was "frankly appalled" by the government's proposals. "That kind of thinking is what leads to the destruction of the rental market." Peter Farlinger of the UDI said the

8% increase wouldn't be enough because landlords' bills for natural gas were expected to rise 58% later in November and hydro-electric rates were expected to rise 25%. "We don't know what our taxes will be until June. In the meantime I'll have to renew leases at 8% and next year I'll find it's not enough...If my prices are being controlled I expect to see my costs being controlled, and I don't see any government doing that".[86]

Jan Schwartz, president of Multiple Dwellings Standards Association, which represented small landlords who accounted for about 10,000 apartment units (about three-quarters of them in Metro Toronto), stated that the controls would bankrupt some landlords. "They're really crucifying the little guy who just happens to be a landlord. There are many people who put their life savings in a small apartment building".[87]

However, Lina Chartrand, chairman of the FMTA, said the controls were not tough enough to protect tenants. The rent control bill "cools off some of the pressure, but it doesn't get at the main problem. It's a really weak bill. It doesn't even question whether people are paying a fair rent now", she said.[88]

6.2 Second Reading

On November 13 the Housing Minister, John Rhodes, moved second reading of Bill 20 - An Act to provide for the Review of Rents in respect of Residential Premises.[89] The Legislature began second reading of the bill that evening. In debate the NDP protested the exclusion of fourplexes and other small rental units. Michael Cassidy (NDP-Ottawa) estimated that 40% of Ontario tenants lived in units that would be exempted from the controls as proposed by the PCs.[90] (This was a substantial exaggeration. In 1976, there were 310,000 rental units in the form of single detached or single attached (semi-, row, dupluex) dwellings out of a total of 958,000 rental units -- see MOMAH, 1983, p. 18.)

Later, in an interview, Rhodes conceded that tenants of apartment buildings with four or fewer units (about 30% of the total) might be brought under the proposed legislation. "I had not realized how many we were exempting" Rhodes stated.[91] Housing officials estimated that 600,000 tenants across the province would be covered by the original proposals and that up to 350,000 would be exempt. In Metro Toronto it was estimated that as many as three-quarters of the 350,000 rental units would be covered by the original proposals. Tenants of fourplexes and smaller units formed the vast bulk of the exemptions, the only other categories being the so-called "luxury units" with a monthly rental of $500 or more, government owned buildings, co-operatives and non-profit housing.

The next day (November 14), however, the Multiple Dwellings Standards Association continued to claim that small landlords would be bankrupted if the original proposed exemptions were not legislated. The Toronto Star publicized the problems of several small landlords confronted by the prospect of the 8% ceiling on rent increases. A.E. Diamond, Chairman of Cadillac-Fairview Corp. Ltd., told the Star that many landlords could prove higher costs justified increases over 8%. But he predicted hard times for landlords "if the board is pushed because of political consequences or they judge on [the basis of] the tenant's ability to pay".[92]

Second reading debate resumed on the afternoon of November 18. Both Nixon and Ian Deans, the NDP house leader, agreed that it was unlikely that the controls would be lifted on August 1, 1977 as scheduled. "Anyone who thinks this sort of legislation is going to be sloughed off with the resurgence of the free enterprise system is, of course, in error," Nixon commented.[93] The Liberal leader stated that he would have liked the legislation to contain a clause removing controls from communities where the vacancy rate reached 3% or 4%. He continued, "But it seems that with the growth of the communities, particularly urban communities, that this rent control is a responsibility the House must accept."[94]

Deans stated that the government would not take measures to end the housing shortage and therefore it would not be able to lift the controls in 1977. Nixon predicted that the government would have to accept an increasing role in providing funds for housing because existing government programs had failed to leave enough private sector builders to meet housing needs.

6.3 The NDP's Ideology

Rent control and security of tenure for tenants had been an article of faith for the NDP for some time. Stephen Lewis, speaking on Bill 20, stated that "all of us in this party believe in the principle of rent control and rent review and have for a good many years".[95] The NDP member for Ottawa Centre, Michael Cassidy, had earlier pointed out that NDP members had introduced private member rent control/review bills a number of times since 1968.

Columnist Orland French, in reviewing NDP Leader Bob Rae's presentation to the Commission of Inquiry into Residential Tenancies in 1983, noted that Mr. Rae argued that the NDP became the Official Opposition in 1975 on the basis of its advocacy rent controls which it thought of as an "NDP issue".

> Yes and no. It did, and it didn't. There were a lot of other political harpoons flying around to deflate Premier Davis's Big Blue Blimp. Rent review may have been the single biggest issue, promoted by Mr. Lewis, but it erupted just prior to the campaign. It's stretching a point to suggest,as Mr. Rae does, that hard-slogging NDP work from 1967 onward (when the party advocated a tenants' bill of rights) brought down the Premier's airship. Voters seek instant gratification. They don't have long memories.[96]

One NDP member, Mr. Samis, argued that the private member bills introduced in the spring of 1975 by Mr. Cassidy and Mrs. Campbell were not the result of political calculation. "Neither of these members looked at the Gallup poll or any public opinion poll to see if it was popular. They stood up on principle ...".[97]

Ian Deans, NDP member for Wentworth, claimed that his party "first started talking about the need for rent review and rent control and amendments to the Landlord and Tenant Act back in 1966 and 1967, the need was evident at that point ...".[98] He noted that in 1968 or 1969 The City of Ottawa "asked for private legislation to implement a form of rent review with controls that would have enbled them to take a grip on what was then going on". However, the government members defeated that section of the bill. Mr. Deans blamed the problem on the "skyrocketing price of land" in response to speculation and the absence of government policies to control such behaviour by the private sector.[99] He predicted that rent control legislation "will be in place forever because this government will never ever address itself to the problem of developing a sufficient number of housing units".[100]

Stephen Lewis also argued that ideology -- in this case Tory ideology -- must give way to irresistible forces that require any government to intervene. He noted that Bill 20

> runs counter to many philosophic convictions the government has, but it is just one of those desperate compelling realities that this intervention in the marketplace has to occur. ...its the recognition that the government intervenes in the life of the private sector to protect the citizenry of a province. ...there is no way around it. It is irresistible. It happens. Now cope with it and make it fair.[101]

The strong distaste of some NDP members for the role of profit in markets to allocate "necessities" is evident in Mr. Bud Germa's (Sudbury) statement that

> people who make profits in housing are no better than those people who, like jackals eating a cadaver, make a profit in nursing homes. To make a profit on that kind of situation is just abhorrent to me. I don't think the necessities of life should be subjected to the vagaries of the marketplace and that for the sake of profit people should have to do without housing or medical services.[102]

Ideology, has a well known capacity to alter the perception of what others consider to be facts or at least strong theoretical connections. NDP Leader Stephen Lewis said that, "we don't believe for a moment that rent control actual, intended or otherwise necessarily reduces the building of new accommodation. That is a hoary mythology which Tories perpetuate but doesn't commend itself to us."[103] Lewis went on to contend that "rent control and rent review, embodied in this bill [Bill 20], if applied fairly, giving the landlord the right to appeal, as it does and therefore giving a return on investment in the process, need not, under any circumstances, deter the building of rental accommodation".[104]

However, at least one of Mr. Lewis' colleagues acknowledged that controls may have an adverse effect on the supply of rental units. Mrs. Bryden, an MPP for a Toronto riding, compared rent control "to something like a wonder drug. You use it in a case of very serious illness even though you know that it has side effects. I think most economists will agree that rent control does have side effects, that it may discourage demand [sic] and that, therefore, you must take counteracting measures to counteract the side effects."[105] Mrs. Bryden also acknowledged that "we know that rent control has brought a deterioration in maintenance where there is not such [strong] enforcement ... of maintenance standards".

NDP ideology encourages active use of government intervention to solve pressing social problems. Both Mrs. Bryden and Mr. Lewis called, in the former's words, for a "vigorous housebuilding programme" by government. She proposed to acquire land to eliminate the speculative element and to require financial institutions to put a fixed percentage of their funds into mortgages. Lewis emphasized that in the view of his party rent review and rent control were not "in any sense an answer to the housing crisis. ...No one of us is deluded enough, or filled with illusion enough to believe it."[106] But rent control was an "absclute necessity to correct the vagaries, injustices and often outrages -- of the way in which the marketplace had worked to the disadvantage of tenants everywhere in Ontario." Lewis called for the government to launch a housing program to build more than 100,000 units a year. He gave no idea of what this might cost, but at $1500 per unit per year (approximately the average level in the Ontario Housing Corporation's program), the annual subsidy would total $150 million. Mr. Lewis also called for the "public ownership of urban land" in Ontario. Lewis argued that "this intervention [rent control] in the marketplace is absolutely indispensible [and] it must persist for a very long period of time ... [and] that it is one of the best pieces of social intervention tht this legislature has brought itself to in many years."[107]

6.4 How Constraining Was Ideology for the PCs?

The conventional view is that the PCs were quite reluctant to introduce rent controls. For example political columnist Orland French, writing in the Globe and Mail, put the matter this way:

> The Ontario Tories never wanted rent controls. Imposing restrictions on a person's right to make an exorbitant buck out of another person's right to adequate housing grinds against the very nature of their free enterprise philosophy.
>
> But in 1975, the New Democrats turned spiralling rents into a sizzling election issue. The Conservatives, already in deep trouble for other reasons, reasoned quite logically that there were more votes to be had from apprehensive tenants than from comfortable landlords. Faced with making a choice between sticking to principle or adopting pragmatic politics, the Tories jettisoned principle for the sake of clinging to power.[108]

The PCs' free enterprise orientation has also been subject to the overwhelming desire of practical men to keep the party in power. It is easy for any political party to argue that it is impossible to do the Lord's work while in opposition. Manthorpe (1974, p. 8) comments,

> As a government, they have survived since 1943 not by a superior philosophy, but by superbly executed pragmatism. To a large extent the Conservatives have not led the province; rather, they have been dragged along by the needs and demands of its people. Changes in policy directions have generally been taken, not to anticipate a need, but when the need has become the problem, and the clamour for change has become so great that the political penalty for inactivity has outweighed the penalty for acting. 'Do nothing until you have to, and then only as little as you can get away with,' might well have been the catch phrase of the government.

The opposition members clearly believed that the Tories were most uncomfortable first in promising and then in introducing rent controls. For example, NDP member Mr. Bud Germa said that, "It is quite obvious that the minister [of Municipal Affairs and Housing, whom he described as a 'rabid free enterpriser'] is choking -- he is choking when he introduces this bill [No. 20 to implement rent controls] and it must feel like swallowing fish hooks by the sounds I hear coming out of the third party [Liberals] in the House".[109] NDP leader Stephen Lewis argued that the Minister (Mr. Rhodes) was "uncomfortable with the bill. Sotto voce, he says, 'me', and points to himself as an unrepentant Tory who feels that this kind of intervention in the marketplace is some kind of sacrilege. He is uncomfortable with it, but he brought it in. Think of those to my left [the Liberals] who can't even tolerate its presence".[110]

But were all the Tory members very reluctant to support the imposition of rent controls? There is some evidence to indicate that there was substantial support in the PC caucus for controls prior to the election campaign. Was opposition to controls within the PC party centred among the ministers rather than among backbenchers? Was the opposition personal, i.e., based on the philosophy of individuals? Or was it based on what those individuals believed to be in the longer run interests of the party which had traditionally drawn its support from the conservative ridings in southern and western Ontario? For these supporters the rights of private property are not a casual matter. We noted in Chapters 6 and 7 that a number of prominent PC candidates were strong advocates of controls during the campaign. Alternatively, were those Tories who opposed rent controls fearful of the longer term adverse consequences of such regulation? This may be an important point for a party that has a high probability of continuing to form the government for an indefinite period. Certainly the PC leadership was quite aware of the experience of other jurisdictions with rent controls and were concerned about the effects of controls on the longer run supply of rental housing.

Mr. Morrow, the PC member for Ottawa West, revealed during the debate on Bill 20 that the Tory caucus had discussed the issue in some detail prior to the election. The discussion was apparently stimulated by the City of Toronto's private members bill which was discussed in committee in May 1975. He stated

> Many members in our caucus took up the challenge and we spoke at length many times throughout the months of April, May and June. It was decided, I might say, by a strong consensus in our caucus that rent control and even the cornerstone of this bill, rent review, would be a plank in our platform in the upcoming election.[111]

Mr. Morrow acknowledged that "perhaps we didn't have all the pegs in place at that time and there has been some evolution in our thinking before this bill came into being". However, the PC member argued that the minister had acted expeditiously "not only because off the urgings of the parties opposite, but because of the urging of many members of his own caucus".[112]

An NDP member, Mr. Grande, explained what happened to his PC opponent who was opposed to controls.

> During the last provincial election my Conservative opponent, when asked in a television programme whether he agreed or disagreed with rent controls said, "I'm against rent controls. I've been in cities like Chicago and they don't work". Well I am enjoying my position here [in the Legislature] and my opponent is out there eating his words.[113]

6.5 The Select Committee

The second reading debate on Bill 20 was exhausted by November 20, at which time a committee, the Select Committee on Bills 20 and 26, was strucked to consider the Bill in detail and to hold public hearings. (Bill 26 -- An Act to Amend the Landlord and Tenant Act -- was referred to the Select Committee five days later on November 25.) Mr. J. Williams (PC-Oriole) was appointed chairman of the Committee which was composed of six Progressive Conservatives, four NDP members and three Liberals. The Committee met between November 24 and December 8 and held public hearings during the week of December 1-5.

At the public hearings landlords attempted to eliminate the government's 8% rent increase ceiling. Almost all of the sixty people who appeared before the Committee were either landlords or their representatives who opposed rent controls. Most of the 108 briefs received by the Committee decried the proposed controls. Alex McFedries, clerk of the Committee, said that protest letters had flooded into Queen's Park describing the rent control proposals as Fascist, Communist, Mafia-like and unfair to landlords. By December 2 about 500 people had telephoned Queen's Park, nearly all were opposed to the 8% ceiling.[114]

One of the first groups to testify was the UDI whose director Peter Farlinger told the Commitee that "unenforceable and even unmonitorable" services might be cut back if the bill as it stood became law. These services, he stated, included painting and decorating, landscaping and replacement of carpets and appliances. (See the discussion in Stanbury and Vertinsky, 1985, Ch. 4.) He also argued that the controls should have been retroactive only to October 14 when the federal anti-inflation guidelines took effect and not to July 31 as promised by the Ontario government. Vacant apartments should have been excluded from the controls when new tenants move in to allow landlords to cover the costs of renovating. Moreover, he argued that the 8% ceiling should have been considered an annual allowable increase so that those ending a multiple-year lease would have to pay more.

Other landlord representatives repeated the NDP's earlier arguments that the allowable rate of increase should have been 10%, and that it shouldn't have been retroactive to July 31. Several landlords argued the bill would mean rent disparities within a building because rents raised before July 30 would not be subject to controls,while those raised later would be. This, they said, would lead to hard feelings among tenants.[115]

The Committee also heard from people who said they depended on rents from small apartment buildings for their income upon retirement. The 8% limit, especially during the period from July 31, 1975 to January 1, 1976, would be a severe hardship, these small landlords argued.

In their presentation to the Committee, the Federation of Ontario Tenants argued that public housing units should not be excluded from the legislation. The group said rents geared to income could increase up to 200% "if a person on welfare is lucky enough to get a job." That meant the Ontario government was "open to charges of rent gouging far worse than any private landlord."

Many of the amendments sought by tenant groups in the hearings were included in a 16-page list of 33 amendments announced by the NDP at a news conference on December 3.[116] The greatest change would have allowed only a 6% increase in rents, made controls retroactive to December 31, 1974, and would have required debate in the Legislature before the controls expired, instead of the automatic repeal of the bill on August 1, 1977. Other changes sought by the NDP included the following:

- inclusion of rooming houses under the legislation;
- tenant deduction of rent payments above the 8% ceiling;

- a rent registry to record rent levels and to help identify gouging landlords;
- inclusion of newly constructed buildings under a new section that would set a fair rent level for new buildings;
- empowering rent review officers to be able to investigate rent increases, rather than only hearing applications;
- annual reporting of the Rent Review Board to the Legislature; and
- all rent increases in a given building to take effect on the same date.

Michael Cassidy (NDP-Ottawa) was cautious about the chances of the proposals being accepted, but stated that he thought they would make the bill "a better piece of legislation". Nevertheless, the NDP members were "prepared to review these proposals or to draft new amendments as a result of comments from the public" or other committee members.[117]

If all the proposals were turned down by the PCs and Liberals, and if the bill was changed to favour landlords, Cassidy intimated that the NDP would consider voting against it in Committee and in the Legislature. NDP leader Stephen Lewis said later he would probably force recorded votes in the House on several of the provisions - including the 8% limit, the expiry date, and the retroactivity of the legislation.

The Select Committee on Bills 20 and 26 finished a week of public hearings on December 5. Instead of continuing to sit the next week to deal with the bill on a clause-by-clause basis, the Committee voted to deal with the details and amendments of the bill in the Committee of the Whole House in an effort to save time. The only dissenting vote was registered by Alfred Stong (Lib.-York Centre) who wanted the Committee to hear more arguments from landlords and tenant groups.[118]

The Liberals also had a list of proposed changes. However, the three Liberal members on the Committee - Edward Good (Waterloo North), Hugh O'Neil (Quinte) and Alfred Stong were influenced favourably by the case presented by small landlords, many of whom depended on the rents from small apartment buildings for retirement income. Consequently, the Liberals reviewed their list of proposed amendments in their caucus on December 8 in an effort to reconcile the differences within their party on the issue. These were exemplified, on one hand, by Margaret Campbell who was strongly on the side of strengthening the bill for tenants. On the other hand, Mr. Good argued in the House that controls should apply only in areas with low vacancy rates, that the freeze until the end of 1975 would not solve the problem of unconscionable rent increases, and that owners of buildings with four or less units should be exempt.[119]

Housing Minister John Rhodes asked the Liberals, in an aside during the Committee hearings, what they expected of the bill and was told that they would support a change to allow rent review officers to consider rent increases and costs back to the beginning of 1975 in deciding what was a fair return for landlords. This would, in some cases, help the small landlord, who might be able to show that his costs over the full year justified a higher increase on rents. The change would eliminate the freeze from July 30 until December 31 by allowing appeals during that period for increases greater than 8%.[120]

At their caucus meeting on December 8 the Liberals decided to combine with the NDP on some amendments to force changes on some of the points in Bill 20. The Liberals approved bringing rooming-houses, non-profit, limited dividend and public housing units and accommodation costing more than $500 a month under the 8% ceiling on rent increases. The Liberals also wanted appeals by tenants and landlords allowed on rent increases back to July 30. After the caucus meeting, Mr. Good stated that his party rejected the NDP's argument that controls should be retroactive to December 31, 1974, favouring instead the longer appeal procedure. He said that would help small landlords, whose income would be "severely reduced by the 8% ceiling without appeal."[121]

In addition, the Liberal caucus decided rent review officers should be asked to consider the rents charged in equivalent accommodation - but not under rent control because leases were signed before July 30 - when ruling on an appeal by a tenant, or an application by a landlord for a higher increase. The Liberals said the officers should also consider leases "mutually agreed upon" between landlords and tenants in deciding cases.[122] The Liberals also supported bringing buildings with four or fewer units under the scope of the legislation -- an important change backed by the NDP.

While the NDP advocated removing the automatic expiry date or "sunset clause" -- August 1, 1977 -- from the bill, which would then have to be debated to be repealed, the Liberals held that the controls should expire either then or at the same time as the federal anti-inflation program. The Liberals also declined to support the NDP's proposals that (i) the rent increase ceiling be lowered from 8% to 6% and (i) that new rental buildings constructed after controls were imposed be brought under the controls.[123]

6.6 Committee of the Whole

Clause-by-clause debate on Bill 20 commenced in the Legislature, meeting as the Committee of the Whole, on December 10. During the debate the opposition parties obtained some changes in the proposed legislation. Rooming-houses were brought under rent control despite the Housing Minister's arguments that the law would "probably create some chaos" in enforcement as it was, without the possibility of rent review officers having to crack down on big rent increases in individual rooms, where tenants could change frequently. Most Conservatives spoke against the change, pointing out that it would mean costly administrative problems, but Frank Drea (PC - Scarborough Centre) argued that the Government must protect old people and construction workers who live in rooming houses while away from home on a project. He said because "something is considered inefficient on paper surely should be the last reason for the Government not to move into that field." Larry Grossman (PC - St. Andrews, St. Patrick) also wanted rooming-houses included. Both Drea and Grossman stayed out of the House for the vote, rather than vote against their party. The NDP and the Liberals forced the change by a 57 to 31 vote.

The same vote carried an NDP amendment that allowed municipalities to ask the Minister of Municipal Affairs and Housing to be permitted to appoint their own rent review officers, instead of all the officers being appointed by the Province. Mr. Rhodes opposed that amendment, saying that the law would have to be uniformly applied throughout the province, and he doubted that would be the case with municipal appointees in different areas.[124]

However, the NDP did not get all they had hoped for: the annual ceiling on rent increases remained at 8% when 25 Liberals voted with 31 PC's to defeat 32 New Democrats. The Liberals also helped defeat an NDP amendment that would have brought travel trailers and tent trailers under rent controls. (The legislation, however, covered rents on mobile home sites.)[125]

The next day (December 11), the Liberals continued to vote with the minority government to change the shape of the proposed legislation, defeating the amendments put forward by the NDP. The Housing Minister introduced a package of amendments, many of which were almost identical to the Liberals' proposals. Amendments supported by both the Liberals and the PCs included the following:

- the 8% ceiling from July 30 to December 31, 1975 could be appealed by tenants or landlords;
- increases above 8% in the same period would be allowed if both landlord and tenants reached an agreement;
- any rent could be charged on an apartment which had never been rented before; and
- tenants were allowed to deduct from their rent any unjustified increase that a landlord did not refund after 60 days provided a rent review officer authorized the deduction.[126]

In the evening session, the NDP lost a move to delete a section that allowed landlords, forced by tenants to go to a rent review officer, to ask for a greater increase than they (the landlords) had originally requested. Party members argued this would allow intimidation, with a landlord threatening to ask for even more if a tenant did not go along with a rent increase.

It was the first time in the minority Legislature that the Liberals had been able to influence policy so directly. Their hard-line stand frustrated NDP spokesman Michael Cassidy who said the changes "violate the principle" of the bill. He also said that the other parties are "biased in favour of landlords". Bill 20 was so different, Cassidy said, from its original form that the NDP might change its mind on supporting it even in principle.

Debate continued through the week until December 16. The Liberals continued join with the Tories to defeat many of the NDP proposals that would have favoured tenants in rent disputes with landlords, although on several occasions they supported the NDP to force amendments that the Housing Minister opposed. The debate, perhaps the most interesting politically in the years, according to the Globe and Mail,[127] saw four Liberals vote against their party during the clause-by-clause debate. One PC, Keith Norton, opposed his party's stand. On several occasions, the Housing Minister was forced to hurry to give last-minute instructions to Conservative members as to which opposition amendment to support. It was the Liberals, voting sometimes with the Government, sometimes with the NDP, who determined much of the final form of the controversial measure.

6.7 Third Reading

The bill passed second reading on December 16, and after the customary 24 hour wait, was passed on third reading and given Royal Assent on December 18, 1975. Bill 26, amendments to the Landlord and Tenant Act, also received third reading on December 18. Commenting that day, the Housing Minister John Rhodes said that despite the changes forced by both opposition parties in the House that week, he was "not at all that unhappy" with the new rent control legislation.[128] The Minister stated that the law would probably cost $10 million to $12 million a year to administer, with a staff of 600.

6.8 The Nature of Rent Controls

As enacted in December 1975, the key elements of Ontario's system of rent regulation were as follows:

- About three-quarters of rental units in the province were covered by controls. The principal exemptions were the following: new construction, i.e., units in buildings occupied after January 1, 1976; units in complexes owned, operated or administered by the federal, provincial or municipal governments; units in non-profit and cooperative complexes that are subject to the approval of a government; transient accommodations in hotels, motels, etc.; and living accommodation associated with farm or non-farm employment. Note it was amendments effective January 16, 1976 that exempted certain rental premises in non-profit or government-owned complexes.
- Units renting for more than $500 per month were exempt. (In 1980 this was changed to $750 per month and in late 1984 the exemption was removed.)
- Landlords could increase rents by not more than 8% per year (the statutory rate of increase) retroactive to July 29, 1975. (Effective October 27, 1977 the statutory rate was reduced from 8% to 6% and it was reduced again to 4% effective May 2, 1985.) Under the amendments to the Landlord and Tenant Act rents could not be increased more than once every 12 months.
- Controls were to expire automatically on August 1, 1977.
- No explicit provision was made to the allowed rate of return owners could receive on their capital. In effect, the owners' return was frozen in nominal

terms -- assuming they were able to obtain rent increases equal to their cost increases. There was no provision in the original 1975 legislation for the relief of landlords' financial hardship, i.e., where the landlord had a zero or negative cash flow. (In the 1979 amendments, landlords could obtain rent increases to ensure revenues were 2% more than their outlay costs.)

- Provisions were incorporated into the Landlord and Tenant Act designed to strictly control demolitions, conversion of rental units to other uses (e.g., condominiums), renovation, and occupation of rental units by their owner.
- Amendments to the Landlord and Tenant Act greatly strengthened tenants' security of tenure (i.e., the rules under which landlords could evict tenants during the course of a lease and at the end of a lease) -- see Stanbury (1985a, Ch. 3).
- Rent controls were administered by Rent Review Officers and by the Residential Premises Rent Review Board, which dealt with appeals from the initial decisions of the Rent Review Officers. The Board was composed of 53 members, of whom 29 were designated as "representative tenants" while the other 24 were undesignated. (This was changed in 1979 to the Residential Tenancy Commission, the members of which are not representative of any interest.)
- The legislation did not include provision for a central rent registry. (Such a registry was recommended by the Commission of Inquiry into Residential Tenancies -- see Thom (1984).)
- It was made an offence for a landlord to charge more than the statutory rate of increase in rent or to increase rents more than once every 12 months. (These offences were deleted in the 1979 amendments.)

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7. "Davis promises rents package he hopes will please everyone", Toronto Star, October 7, 1975. [Note that the Premier and his Housing Minister had a clear grasp of the long term implications of most rent control schemes well before they were legislated. Recall Stigler (1982) on this point.]

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Chapter 9

THE RENT CONTROL ISSUE IN 1985

1.0 INTRODUCTION

The purpose of this chapter is to examine the politics of rent control in Ontario a decade after this form of regulation was imposed in the province. The year 1985 is particularly appropriate for this purpose for several reasons. First, the third provincial general election since rent controls came into force took place and rent controls was at least as important an issue in that campaign as it was in the 1977 and 1981 campaigns (see Stanbury, 1985c). Second, a decade would appear to be sufficient time in which to determine if the nature of the debate over rent controls changes much over time. Third, in 1985 the Liberals, with the aid of the NDP, replaced the newly-elected minority Progressive Conservative government. Within six months they announced a "comprehensive housing policy" which included a number of important changes to rent regulation that suggest controls will be in place in Ontario for years to come.

What is remarkable about the politics of rent control in 1985 is its deja vu quality when one recalls what occurred in 1975. In particular, all three political parties actively competed in 1985 to make controls more stringent, and the two opposition parties (Liberals, NDP) advocated that rent controls be extended to previously exempt buildings constructed subsequent to the imposition of controls and to previously exempt "luxury" units. Hence, the coverage of controls would be increased from about 77% to 86% of the rental stock. (These data are for 1981 from Pringle, 1985, Figure 4.1.) In 1975 all three parties competed for the votes of tenants (37% of all households) by offering to impose rent controls of varying degrees of severity.

General economic conditions in 1985, however, were quite different than they were in 1975, e.g., the rate of inflation in 1985 (about 4%) was less than half that of 1975 (10.8%), while the unemployment rate was substantially higher (8.2% versus 6.3% in 1975). The vacancy rate in most Ontario CMAs in 1985 (under 1% in Metro Toronto) was well below the rate in 1975 - see Stanbury (1985a). Yet the political rhetoric in support of rent controls was remarkably similar. It was argued by its proponents that rent controls were necessary to ensure the security of tenure of tenants (particularly to prevent economic eviction), to ensure that low-income households could obtain affordable housing, and to prevent landlords (in light of the very low vacancy rates) from "gouging" tenants. The opponents of controls argued that the predicted adverse consequences of controls had, in fact, occurred:

- much lower vacancy rates (particularly in Metro Toronto) -- attributable to a decline in the volume of new rental units being constructed;
- reduced levels of maintenance, resulting in the deterioration of the rental stock;
- persistent efforts by landlords to remove rental buildings from the controlled stock by conversion, demolition and reconstruction, etc.;
- a fall in the rate of new construction of rental buildings -- despite the fact they were exempt from controls between January 1, 1976 to August 1, 1985;
- a fall in the market value of rental buildings reflecting the anticipated reduction in net rents under controls; and
- the existence of "cheating" and/or agreements to pay rents above the maximum legal level.

2.0 A NEW TORY LEADER

In January, the leadership campaign to replace Bill Davis who had announced his decision to resign as Premier and Leader of the Progressive Conservative Party in early October 1978, was in full swing. One of the candidates, Dennis Timbrell, proposed to eliminate rent controls "in the future" -- when vacancy rates rose to three per cent. All candidates favored efforts to increase the supply of rental housing. Larry Grossman argued that controls could not be removed until the vacancy rate was in the range of 3% to 5%. Roy McMurtry saw great difficulties in extricating the government from controls, although at some point it should consider "easing ourselves out of a difficult situation".[1]

On January 26, Frank Miller became leader of the Conservative Party.[2] In a Financial Post article, Frank Miller was described as an "unreconstructed conservative" who had to learn the pragmatism of politics.

> One thing I have learned is that no pure ideological system exists or works in today's world. ...Sometimes you have to put ideology aside. There are no hard and fast rules. We live in a mixed economy today and I guess I'm a mixed-up politician as a result. You can't say this is the way it should be, therefore this is the way it must be. If politics has taught me anything it is that you must be prepared to adjust to the realities of the way the world is.[3]

Mr. Miller's views on rent control reflected a blend of personal values and of political reality:

> Rent control? It has halted rental construction and reduced the supply of housing. Says Miller, "There is no pure economic argument for rent control. Of course, that's ideology speaking. I wouldn't do away with rent control. Any government saying that is going to be out of office."[4]

Not only was Frank Miller going to keep rent controls, within two months of being elected leader of the PCs, his Government sought to pre-empt the other parties on the issue by making them more stringent.

3.0 THE TORIES OPEN THE BIDDING ON RENT CONTROL

On March 20, in anticipation of a provincial election which was to be called on March 26 for May 2, the Minister of Consumer and Commercial Relations, Mr. Gordon Walker, announced plans for new legislation regarding rent controls to be introduced in the next session.[5] Mr. Walker also said that controls would be retained over the next four years if the Tories were returned to power. The proposed changes in the rent control system were the following:

- The statutory rate of increase was to be reduced from 6% to 4% (this is the rate that landlords may increase rents without going through the rent review process). In future years, the statutory rate would be established "bearing in mind both wage and cost increases and the need for a fair rate of return to rental investors".
- Tenants were to be allowed to apply for rent reductions if their rent had increased due to higher financing costs (mortgage rates rose to as high as 21%, and then had fallen to about 12% by early 1985).
- The provision that exempted units from controls that rented for $750/month or more was to be abolished effective October 30, 1984. However, all units currently exempt by reason of the earlier exemption were to remain exempt -- the objective was to ensure that rising rents, even under controls, do not result in decontrol of some units.
- Provisions were to be made for the appointment of representatives of both tenant and landlord groups to the Residential Tenancy Commission.
- The 1982 interim financing legislation limiting rent increases attributable to the refinancing of a building following its sale to 5% was to be made permanent. However, "hardship relief would be provided in cases where the previous landlord had little or no mortgage and was charging rents well below other controlled units".
- A commitment was made to bring in a rent registry after technical and legal problems were worked out.[6]
- Incentives were to be provided for landlords to maintain their properties, but the incentives that now exist encouraging the conversion of rental properties to luxury accommodation were to be removed.
- A series of procedural changes were to be made to "streamline" the rent review system.

Several points should be noted about this list of proposed changes in Ontario's rent review system. First, the statutory rate was originally set at 8% in 1975 and effective October 27, 1977 it was reduced to 6%. After being re-elected as a majority government in March 1981 the Tories gave some consideration to raising the statutory rate to the rate of increase in the Consumer Price Index which in 1981 was 12.5%. The economic distress of landlords was exacerbated by rapidly rising mortgage interest rates which stood at 17.75% at the end of 1981. Second, for several years representatives of tenant groups had been pushing for provisions in the legislation under which they could obtain rent decreases when the landlord was able to refinance his mortgage at a lower interest rate - see Stanbury (1985c).

Third, the 1982 Interim Act had originally been enacted for one year following the Cadillac Fairview transaction which occurred in November 1982. (See Corcoran and Reid, 1984; and Morrison, 1983) This legislation had been extended for another year in 1983 and in 1984 (to the end of 1985). Commissioner Thom (1984) in his first report recommended that the provisions in the 1982 Interim Act be made permanent.

Fourth, the $750/month exemption had already been eliminated late in 1984. This change had been recommended by Commissioner Thom (1984) some months earlier. Fifth, the proposal to have tenant and landlord representatives on the Residential Tenancy Commission amounted to something of a return to the original Residential Premises Rent Review Board of 1975-1979, one-half of who members were to be "representative of tenants."

Sixth, tenants have long demanded that the government establish a rent registry in order to reduce the instances of cheating by landlords, particularly when a tenant-moved out (about 40% of all tenants in Ontario each year - see Stanbury & Vertinsky, 1985, Ch. 6). Commissioner Thom (1984) had also recommended that a rent registry be established.

Seventh, almost immediately after controls began tenant groups began pushing for stricter provisions to prevent rental units from being moved out of the controlled stock. They had put pressure on the City of Toronto to use zoning controls and building permits to prevent the conversion of rental units into condominiums. They also sought to prevent major renovations of rental units from being used to raise rent levels and even to take units out of controls. See Stanbury & Vertinsky (1985, Ch. 6).

The Tories announcement prompted a variety of reponses. The Leader of the NDP, Bob Rae, stated, "They're not buying votes with this, they're only renting them".[7] Representatives of landlords, not surprisingly, were not pleased by Mr. Walker's announcement.[8] The president of the Urban Development Institute (UDI) stated that "these piecemeal modifications are definite frustrations for those that invested in this type of property and make investment in high-rises totally untenable". Barbara Fillingham, executive director of the Ontario division of the Canadian Home Builders' Association, said that "What this is going to do is increase the spread between controlled buildings and the amount of rent one can get at market for uncontrolled buildings. So there's even less of an incentive for them to build them." Michael Galway of the Canadian Institute of Real Estate Companies suggested that by announcing changes at this time the government is trying to diffuse rent control as an election issue. He did not see that the announcement would deter the construction of rental units. "Once you have been run over, it doesn't matter if you've been run over twice." Both the representatives of UDI and CHBA said the government should have awaited the recommendations of the Thom Commission whose report was expected later in 1985.

Columnist Ronald Anderson argued that the Progressive Conservatives were ignoring logic in strengthening rent controls.[9] He said that "the existing legislation was tough enough to paralyze construction of rental accommodations by the private sector and to cause vacancy rates for controlled-rental apartments to fall practically to zero". In his view the announcement was designed to win votes from the 900,000 renter households who are "much more powerful in political terms ... than the private sector critics of rental controls". Mr. Anderson criticized controls on the following points: They are a blunt instrument to protect the poor from exorbitant increases in rent -- they benefit the well-to-do more than the poor and adversely affect incentives to build new units than a targeted subsidy program; controls are a subsidy to renters paid by investors; controls result in greater public expenditure on public housing; controls cannot -- as the Minister suggested - be fixed, they should be abandoned.

With respect to the proposal to make the annual allowable increase (without review) vary with the general inflation rate, he doubted that if inflation accelerates again that rents would be allowed to rise, for example, to more than 12%. Anderson, referring to the abolition of the exemption of units renting for over $750 per month exemption, noted the Minister "did not say why the Government feels obliged to intervene on behalf of renters in the [high] income brackets affected by this move". The columnist interpreted the proposal to reduce rents after the costs of major improvements have been amortized as the removal of incentives for the landlord to upgrade or even maintain this building. He concluded by saying that "Mr. Walker's fixes promise nothing more than further impoverishment of Ontario's rental housing industry".

The centrepiece of the Conservatives' campaign promises -- also announced a week before the campaign was officially announced -- was a $1.3 billion economic program called "Enterprise Ontario".[10] It was similar to the $1.5 billion Board of Industrial Leadership and Development program which was announced by Premier Davis five days before the 1981 election was called. It had been trumpeted under its acronym BIL...D -- thought to be a clever play on the Premier's name. According to Premier Miller, "With this new progam, we are saying Ontario is open for business". (This phrase was remarkably similar to Prime Minister Mulroney's "Canada is now open for business".) While the inflation rate was down below 5%, the Premier was aware of the need to create jobs in a province with 8.7% unemployment.

Enterprise Ontario included the following: elimination of $325 million per year in corporate income taxes for small business; a $250 million fund to encourage firms to modernize by providing loans for one-half the amount of capital investment; $15 million for university research and more money for "innovation centres" to provide technical advice to small business; a new Ministry of Skills Development to coordinate several vocational training and youth employment programs; and $22 million over three years for improved child care programs to permit women greater access to training programs.

The Tories also sought to appeal to voters on the other end of the economic spectrum. In addition to rent control (two-thirds of whose benefits go to the non-poor), more help for day care, more money for skills training and youth unemployment programs, well-off Tory supporters were urged by Provincial Treasurer Larry Grossman "to have the courage to care" for people not in the "mainstream".[11] He continued, "the primary duty of anyone who calls himself or herself a 'Tory' is to ensure the greatest degree of fairness and equity." The man who lost to Frank Miller by only 77 votes said he wanted to build "a party that refuses to be the preserve of any interest group, any elite, or any demographic sector. Our party must let the smug and the complacent, the self-righteous and the insensitive, the ideologically extreme and the rigid, reside elsewhere." In eight months Mr. Grossman was to become leader of the Tories who at that time were in opposition.

4.0 THE 1985 ELECTION CAMPAIGN

During the election campaign leading up to voting day on May 2 the opposition parties argued that the Tories could not be trusted on rent controls. (This was a repeat of the NDP's strategy in the 1981 election campaign - see Stanbury, 1985c). Liberal leader David Peterson stated that tenants "know it is a politics of pragmatism not of conviction. To have Gordon

Walker [well known for his distate of controls] announce it is the height of hypocrisy."[12] Bob Rae, the NDP leader, said he didn't think the proposed 4% statutory rate was real: "I'm convinced that the Tories are going to be looking for a reason and an excuse to get out of rent controls after the election."[13] He argued that if the Tories really believed in controls they would have brought the proposed changes into effect prior to the election.

Not to be outdone by the PC's promises, both the NDP and the Liberals promised to extend rent controls to units occupied since January 1, 1976. These had been exempt under the original 1975 legislation. As of 1984 these units amounted to 9% of the total rental stock in Ontario. As of mid-1981 (the latest for which we have data), Pringle (1985, Figure 4.1) indicates that the rental stock was distributed as follows:

	Number	
• Units subject to rent regulation	839,000	77.2%
• Units not subject to rent regulation		
- socially assisted units	148,000	13.6
- new, privately initiated construction (post 1975)	86,000	7.9
- pre-1976 units above $750/month rent	14,000	1.3

The NDP had advocated the extension of rent review to all the buildings first occupied after the beginning of 1976 ever since mid-1978 - see Stanbury (1985c). However, while the Liberals under David Peterson had proposed in November 1982 that all rent increases be limited to 5% as landlords' contribution to efforts to curb inflation, the party had not previously advocated that the scope of controls be extended to previously exempt buildings. Presumably the Liberals "upped the ante" in response to the Tories and NDP's "bids" for the votes of tenants who comprise 37% of all households in Ontario. It should be noted that the Tories under Frank Miller, even when their minority government was on the verge of defeat, did not match the "offer" of the opposition parties regarding the extension of controls to new buildings. In addition to promising to extend rent controls to previously exempt buildings occupied after January 1, 1976, both opposition parties promised

- to establish a rent registry immediately;
- to restrict "adults only" buildings;
- to limit conversion of apartments to hotels;
- to curb the demolition of rental buildings; and
- to provide tenants with the right to purchase their building if the landlord proposes to sell it.[14]

The NDP reinforced its longterm commitment to controls, saying that they would not remove them even if vacancy rates exceeded, say, 5%. They feared future shortages and referred to what occurred in Windsor, namely high vacancy rates due to unemployment in the auto industry followed by much lower vacancy rates when the industry recovered.

Liberal leader David Peterson promised $100 million immediately for cooperative and public housing, noting that the one-year program would create 5000 jobs.[15] The NDP favored a crash program to meet the shortage of rental units. The party proposed to build 10,000 new affordable rental units per year until the demand is met, which its housing critic said would be in two or three years. No price was put on the program, although later the party said it would spend $50 million on the program. (A rough idea of the cost might be obtained by using the average net cash cost of units subsidized by the Ontario Housing Corporation -- about $2500 per unit per year in 1982. Hence 10,000 units would cost $25 million per year to subsidize. In present value terms, this would be about $200 million for each 10,000 units supported by government.) The NDP said that the waiting list for subsidized housing contained 16,000 families and 16,000 senior citizens. The Tories said that they had built some 115,000 subsidized units for low-income households.[16]

A poll was conducted in mid-April for the Globe and Mail by Environics Research of 1015 eligible Ontario voters. One of the questions was "Do you think the Ontario Government was right to lower maximum allowable rent increases to 4 per cent?" Sixty-four per cent said yes, 23% said no and 13% had no opinion or did not answer.[17] Editorially, the Globe argued that controls are "costly, inefficient and unfair". It criticized the position of all three political parties and asked, "Do leaders never look at the consequences of the systems they put in place?"[18] The day before Ontario voters went to the polls the Globe declared that the Liberals under David Peterson deserved to win the election and called for a change from the long years of Tory rule.[19]

On election day (May 2), the voters expressed their dissatisfaction with Frank Miller's Tories in much the same way as they did in 1975: they returned a minority Conservative government. The tally was as follows: PCs - 52; Liberals - 48; NDP - 25. In 1981 the Tories won 70 seats to 34 for the Liberals and 21 for the NDP.[20] In Metro Toronto, which had been the rent control battleground in 1975 and which in 1985 had a vacancy rate of under 1% and the largest concentration of tenants in the province, the Tories were reduced to nine seats from 18. The Liberals captured eight seats, an increase of six, while the NDP's total rose from nine to ten.

Immediately after the election Liberal leader David Peterson "ruled out the possibility of trying to form a coalition with the NDP to supplant the premier." Mr. Peterson was quoted as saying "I am prepared to work with the Tories but I will not allow Frank Miller to take Ontario back 20 years.[21] However, in less than two months the Liberals were able to forge an alliance with the NDP to defeat the Tories and to become the Government. In fact, the PCs were doomed in less than a month by which time the NDP and Liberal parties had signed a formal agreement.

While the Globe and Mail had supported the Liberal Party, only two weeks after the election it applied a sharp tongue to its policies concerning rent control, saying the party "would ... perpetuate the irrationality, injustice and foolishness of rent controls".[22] The paper went on to say that placing buildings constructed since 1976 under controls amounted to "breaking faith with private builders and greatly discouraging new rental construction". The Globe argued that the plan to spend $100 million on rental housing "would effectively complete the socialization of rental housing in Ontario".

On May 17, Dennis Timbrell, who had finished third in the PC leadership campaign, was appointed Minister of Municipal Affairs and Housing. He became responsible for the administration of rent controls which was shifted from the Minister of Consumer and Commercial Relations. Both moves worried the staff director of the Federation of Metro Tenants' Associations. She noted that during the leadership campaign Mr. Timbrell had proposed to remove rent controls if and when the vacancy rate rose to 3% without regard to the price of rental units that were vacant. Second, she was concerned that the shift in ministries indicated that rent control would be seen more as a social welfare issue than a consumer issue.[23]

5.0 THE NDP AND LIBERALS SIGN AN HISTORIC AGREEMENT

On May 28th the leaders of both opposition parties signed a formal agreement to permit the Liberals to form a govenment if called upon to do so by Lieutenant Governor John B. Aird following defeat of the PCs on a vote of confidence.[24] The essence of the agreement was that the NDP would not move nor vote for a motion of non-confidence for two years and that the Liberals would not request dissolution of the Legislature for two years, except following defeat on a motion of non-confidence. However, the NDP could vote against bills introduced by the Liberals but not force an election.

The agreement set out more than a score of specific policy proposals that would be introduced by the Liberals if they formed the government. These included an environmental spills bill, a ban on extra billing by doctors, new employment and training opportunities for young people, equal pay for work of equal value in both the public and private sectors, and reforms to the Occupational Health and Safety Act. In addition, the agreement listed the following "reforms" to Ontario's tenant protection laws:[25]

- establishment of a rent registry;
- establishment of a 4 per cent review guideline (i.e., the statutory rate above which landlords had to obtain the approval of the Residential Tenancy Commission);
- inclusion of the provisions of Bill 198 [1982 interim legislation re maximum 5% increase attributable to the refinancing of a building after its sale] as a permanent part of the Residential Tenancies Act;
- extension of rent review to cover post-1976 buildings;
- an end to the $750-a-month exemption from rent review;
- introduction of a rent review procedure to deal with costs no longer borne by landlords (i.e., lower mortgage interest rates); and
- introduction of enabling legislation to permit demolition control by municipalities.

In addition, under the "program of action from common campaign proposals to be implemented within a framework of fiscal responsibility", the two parties proposed "establishment of an Ontario housing program to fund immediately 10,000 co-op and non-profit housing units, in addition to those provided for under federal funding arrangements".[26]

Constitutional expert Peter Russell of the University of Toronto described it as "a dangerous agreement if it's meant to be iron-clad and rule out an election for two years". The dean of authorities on constitutional issues, former Senator Eugene Forsey, said "anyone signing such an agreement would be doing something very foolish".[27]

Premier Frank Miller described the unique agreement as the "suspension of democracy and responsible government". He also predicted that the Liberal-NDP alliance would increase Ontario's deficit, reduce its credit rating and result in a more U.S.-style political system.[28] One Tory MPP, Bruce McCaffrey, called for Frank Miller's resignation if the party was defeated in the Legislature. He said that Mr. Miller had "sacrified principles in favor of polls. He made commitments right and left just to buy peace and ended up with a party that stood for nothing".[29]

The terms of the agreement with respect to rent controls produced predictable comments fom some of the interest groups associated with the issue. Michael Galway, executive director of the Canadian Institute of Public Real Estate Companies, said that the extension of rent controls to all buildings would mean that Ontario taxpayers could end up paying "hundred of millions of dollars" more a year in order to finance public housing.[30] The problem would be exacerbated if Ottawa, now a major source of funds for rental and non-profit housing, cuts back its expenditures. This was hinted at in the policy paper prepared by CMHC released in May 1985. Galway put the cost to the public sector at $200 million a year for new construction plus $100 million for the maintenance of existing buildings. "Definitely no builders will build" if controls are extended, he said.

A spokesman for Metro Tenants Legal Services argued that Mr. Galway's claims were "completely without substance".[31] He said that industry had not built needed rental units when new buildings were exempt from controls. The developers' problems were high interest rates and the loss of tax breaks.

NDP leader Bob Rae defended the extension of controls to all buildings as necessary to provide "real security" to all tenants. He said it was time the industry faced up to the reality that shelter is a basic need of life: "No amount of bleating from the industry is going to help." He said the tax increases necessary to create sufficient affordable housing ("one of the great challenges facing the province") must be faced.[32]

Sean Goetz-Gadon of Metro Tenants Legal Services said that "tenants will be very pleased [with the terms of the NDP-Liberal agreement] and it will eliminate a lot of inequities".[33] Julius Melnitzer, lawyer for the Committee of Concern for Rental Housing which represents about 20,000 landlords, said "the Politburo [of the Soviet Union] couldn't have done a better job of assuring the socialization, the nationalization of the housing industry".[34]

The Toronto Star pointed out that even if the Liberal-NDP agreement was implemented, the following would still be exempt from rent review:[35]

- housing owned or operated by or on behalf of the federal, provincial or lower levels of government;
- non-profit housing co-operatives;
- rental units owned or operated by a religious institution for a charitable use;
- educational institutions that rent housing to students or staff. If the tenants are represented by an association or council, the institution must consult with it before making a rent increase final;
- a low-income earner placed in a privately owned rental unit by a government housing authority may have his portion of the rent increased if his income rises; and
- a permanent resident of a hotel. The Supreme Court of Canada has ruled that such a person is not a tenant.

Pringle (1985, Fig. 4.1) estimates that in 1981 these exemptions comprised 13.6% of the total rental stock in Ontario.

After the agreement between the Liberals and NDP was made public, NDP leader Bob Rae stated that Frank Miller and the Conservatives were "willing to do anything" to reach an agreement with the NDP to stay in power.[36] An NDP MPP who had participated in the talks with the Tories confirmed that the PCs were willing to sign the same agreement as had been reached with the Liberals. The PCs were even willing to include a clause that permit the NDP to "opt out" after six months while the PCs would have to remain committed for two years. Premier Miller said that the price of the NDP demands was too high and that they threatened to undermine the principle of daily accountability by responsible governments: "To proceed as the NDP suggested would, in effect, establish a congressional form of governments."[37] Rae described as "hogwash" Premier Miller's statement that his party could not "in conscience" meet the NDP's demands. He also described the Premier's statements as "sour grapes".[38]

6.0 THE TORIES' LAST GASP

The Ontario Legislature convened on June 4 and Premier Frank Miller made a final effort to hold on to power by including in the Speech from the Throne some 90 promises, many of which had been part of the opposition parties' election platforms.[39] The reforms included equal pay for work of equal value in the public service, a freeze on medicare premiums, a $100 million supplement for job creation, and a $100 million "superfund" for cleaning up toxic wastes. He also promised to reduce the Province's $1.8 billion deficit while spending an additional $1 billion over the next three years. The Globe and Mail stated: "With few exceptions, the Tory document is a carbon copy of the legislative agenda contained in the written agreement between the Liberals and the NDP."[40] The paper noted it was "a radical departure from the small-c conservative philosophy espoused by Mr. Miller during the recent election campaign".[41] Mr. Miller described it as a "middle-of-the-road document". Bob Rae said it was a "deathbed repentence, their way of saying they're sorry...but it can't be taken seriously".

Mr. Miller's speech said that "ongoing regulation of the rental market must remain in the public domain". He proposed to revive defunct programs of direct subsidies to builders of low-cost rental units and housing rehabilitation schemes. He promised to spend $400 million over five years to encourage the development of rental accommodation. The statutory rate of increases in rents was to be reduced from 6% to 4% and a rent registry was to be established. However, the Tories said they would not break faith with investors by extending the scope of controls to buildings first occupied since 1976. The Premier said, "Excessive or irresponsible regulation would drive out the private sector and thereby harm both tenants and taxpayers."[42]

Columnist Orland French described the opening day of the Legislature as "a day of humiliation for the entrepreneur from Bracebridge. ...This throne speech could not have been much more leftist had it been written in the offices of NDP leader Bob Rae."[43] For "shamelessly renouncing his principles ... his humiliation ... was earned and deserved". Mr. Miller at a press conference said that "a government responds to the actual conditions" in which it finds itself. His party had run a right wing campaign in a middle-of-the-road province.

The Globe and Mail praised Mr. Miller's Throne Speech. While being clearly "progressive", it "also managed to assert some distinctly Tory wisdom in the face of certain defeat".[44] The paper referred to his explicit unwillingness to extend the scope of rent controls. However, for the Tories, it was "not so much a case of too little too late, just too late".

Indeed it was. Less than three weeks later (June 18th) the Tories were defeated (the vote was 72 to 52), ending 42 years of uninterrupted rule. Power passed to David Peterson and the Liberal Party, although it had done so only with a formal agreement with the NDP. In the end, Mr. Miller advised the Lieutenant Governor to call upon Mr. Peterson to form a Government rather than to dissolve the Legislature and call another election as he had earlier said he would recommend. Mr. Peterson had come a long way -- a Gallup poll in March

1985 indicated that only 25% of Ontarians surveyed could name the leader of the Liberal party.[45] Yet on May 2 his party obtained 38% of the popular vote (and 48 seats) as compared with 37% for the Tories who dropped from 72 to 52 seats.

Just before his Government's defeat Frank Miller accused the NDP as "prostituting themselves for power" and said that Ontario deserved better than "a puppet Liberal premier with the NDP pulling the strings".[46] In November Larry Grossman, who had finished just 77 votes behind Miller in the January leadership convention, replaced Frank Miller who had resigned as leader of the Progressive Conservative party. Frank Miller had been leader of the PCs for less than a year and he had presided over the end of the 42 year long Tory dynasty in Ontario.

7.0 THE NEW LIBERAL GOVERNMENT'S PROMISES

In his first major speech in the Legislature as Premier, Mr. Peterson outlined some 40 legislative proposals including a reduction in the statutory maximum allowable rent increase from 6% to 4% effective August 1, 1985. Because of the advance notice requirement, this change came into effect on May 2nd.[47] In addition, as of the same date, rent controls would be extended to all buildings first occupied in 1976 or later, and the $750/month exemption was to be eliminated.[48] The new Premier said his government would be giving "a high priority" to establishing a rent registry. Mr. Miller said he had "weaseled" on this commitment.

A Globe and Mail editorial was very sharply critical of the Liberals' policy on rental housing, describing permanent rent controls as "a Third World policy for a First World nation".[49] Mixing its metaphors, the Globe said their rhetoric was "indigestible". Moreover, it was "a morally indefensible betrayal of private developers" to extend controls to units built since 1975 and to bring even luxury units under controls. The Liberals' proposal to allow tenants to seek rent reductions in the face of inadequate building maintenance was "striking chutzpah". "For landlords, the term 'property rights' has lost much of its meaning in Ontario." The paper described rent controls as an "attack on the market in the name of the minority that cannot afford its products". The Tories in 1975 "allowed [themselves] to be stampeded into general rent controls on the basis of individual hard luck stories that should have been addressed on their merits". The Globe then explained the dilemma presented by controls in place:

> Of course, general rent controls create a huge constituency for their continuation -- the mass of middle-income renters who benefit from the expropriation by the state of the landlords' property values in the name of the poor. Many renters may acknowledge that controls are wrong in principle, unnecessary in fact, unfair in application and destructive of future housing supply and other social goods, but selfish motives and superficial analysis combine to create "the tragedy of the commons" -- the indulgence of individual wants for short term benefits to the ultimate cost of everyone.[50]

Three days later the Globe was highly critical of some comments on rent control by the new Liberal minister of housing responsible for their administration, Alvin Curling. The latter had said that "We are confident that the simple elimination of uncertainty throughout the construction industry will have a positive effect on building stocks."[51] By "simply making our policy absolutely clear ... builders know we are not putting anything under the table". The paper described the new policy as "a chamber of horrors".

Orland French, who had frequently written about rent controls in Ontario, noted in mid-June that "none of the political parties cares about the long-term effect of rent control. They only care about paying off their political debts to coddled tenants."[52] He contrasted the interests of homeowners and tenants. While the former are concerned to protect their investment by maintaining the building, tenants have a much shorter time perspective. He said,

> Tenancy ... carries an inherent sense of impermanence. There is no personal commitment on the part of the tenant whether the building will fall down in five years. He doesn't expect to be there. Nor is there any personal investment to protect.

Mr. French was pessimistic about the impact of the final report of the Thom Commission: "...it won't matter what he says. The politicians have already sold themselves to the tenants".

While columnist French was lamenting the political attractiveness of rent controls, one landlord offered a proposal to end controls that explicitly recognized the tenant's economic interest in occupying a controlled unit. Albert D. Friedberg, one of the owners of four medium-sized rental buildings in Toronto, proposed that controls be ended in three years. Landlords could buy their way out of controls earlier by paying tenants for "the hidden subsidy" that declined monthly for the three years period.[53] The subsidy was to be the difference between the present level of rent and the lesser of twice the rent or $750. Therefore, by agreeing to move out in the first month of the transition period (or stay and pay the market rent), the tenant now paying a rent of $500 per month would receive $9000. A tenant whose rent was $325 per month would receive $11,700 in cash if they sold their "right" to a rent controlled unit at the start of the 36-month transition period.

Friedberg thought his plan would be attractive to tenants because the payments they would receive "may represent the largest windfall ever to come into their hands. One can fancifully speculate that thousands of tenants will be in a position to make a downpayment on a condominium, farm, or home."

How would low-income tenants (for whose sake rent control was obtained and is maintained) be protected? Friedberg proposed that they be given cash subsidies out of public funds to close the gap between the market rent and whatever level the authorities consider to be an affordable rent.

He also thought that there was a "reasonable possibility" that voters would be satisfied with the scheme. Therefore, he reasoned, "all three provincial parties will want to claim credit for ending one of the most odious pieces of legislation ever passed by a democratic body". There was no public response to Friedberg's proposal.

Nicholas J. Patterson, author of Rent Control in Ontario: A Public Policy Scandal published in 1985 before the Tories' announcement of changes in controls, described the Liberals' policy as "another major blow ... against Ontario's crippled rental economy".[54] He predicted that "the effect will be a housing crisis so grave that the entire rent-control scheme likely will unravel over the next year or two." Why? "The reason is the massive cost of replacing the last remaining bit of unsubsidized private rental housing, about 5000 units each year." He said the cost could be $250 million yearly based on the subsidy cost of $47,000 per unit under CMHC's current Non-Profit/Coop Housing Program (known as the Section 56.1 program). Patterson noted that "seventy-five per cent of subsidized housing goes to the lucky few middle-income tenants, according to CMHC, rather than the poor where the need is greatest under rent controls." Under rent control, he argued, landlords discriminate against the poor, single parents and minorities -- "something they couldn't do as easily if facing costly vacancies."

Mr. Alvin Curling, the new Liberal Minister of Municipal Affairs and Housing, was quoted as saying a month after his appointment, "I say to myself, 'It's such a simple problem, how can it be so complex?'"[55] The minister claimed that the drop in rate of production of new rental units had nothing to do with rent control. Rather, the problem was high interest rates, land prices and construction costs. He even claimed there was a surplus of rental units in 1975 when controls were imposed. Mr. Curling indicated that the new 4% statutory rate was not necessarily fixed — it might be increased if the rate of inflation was to increase.

In the July 27, 1985 edition of the Financial Post two well-known economists, Douglas Purvis and Richard Lipsey, said that the Liberals had "embarked on the road to housing suicide".[56] They referred specifically to the change in the statutory rate to 4%. Their analysis can be summarized as follows:

> Rent controls have been used at many times and in many places with a monotonously similar result: the destruction of the market for rental housing. The victims are landlords and low- income would-be tenants.

They sought to understand why the Liberal-NDP alliance had reduced the statutory rate and extended the scope of controls by posing a number of questions:

> (1) Are they ignorant of the unambiguous evidence?
>
> (2) Do they naively believe that the laws of economics apply elsewhere but not in Ontario?
>
> (3) Do they arrogantly believe that they alone can, in some mysterious way not revealed to the rest of the world, avoid the consequences that administrators in New York, Paris, London, Rome and a host of other places have been unable to avoid?
>
> (4) Are they cynically courting the votes of the present generation of tenants, knowing full well that they are imposing great hardships on lower-income people a decade from now?
>
> If we do not wish to accept (4), we must abandon the view that our political leaders are pretty smart people, and accept instead that they suffer from a judicious mixture of ignorance, naivety and arrogance.[57]

The Post's editorial referred to the two economists' article, and argued that the government should be trying to phase out rent controls, not going even deeper into them.

The Purvis-Lipsey piece prompted alderman Anne Johnston, then a candidate for mayor of Toronto, to write a lengthy letter to the editor.[58] She pointed out that Ontario's system of controls is a rent review system "which gives landlords a much better break" than the "rigid control systems in Britain and New York City". She pointed out that landlords can, with the approval of the Residential Tenancy Commission, pass through maintenance and repair expenditures to tenants.

Second, she argued that the construction of rental housing had fallen off dramatically before rent review was introduced, not after. "Rent review was put in place because vacancy rates were already well below normal levels; it did not cause low vacancy rates." She admitted, however, that "no doubt rent review does nothing to encourage developers to build rental housing".[59]

In mid-September Orland French pointed out that legislation extending the scope of controls to buildings built since 1976, and reducing the statutory rate from 6% to 4% had not yet been introduced.[60] In the meantime "government-by-decree [Mr. Peterson's statement in the Legislature on July 2] continues. This future law is being applied now even though the Government has nothing to back it up but the power of persuasion" -- and the threat of retroactive legislation. Mr. Peterson argued that retroactivity was necessary to prevent landlords rushing to raise their rents. Columnist French pointed out that on virtually all aspects of rent control all political parties had the same position.

> In Ontario, there ain't no choice. The Liberals, the Conservatives and the New Democrats all favor a 4 per cent ceiling on rents, just as they all favor extended funding for separate schools. If you want to debate the merits of rent control, you won't find a champion.[61]

During the second campaign for the leadership of the Conservative party in less than a year only Dennis Timbrell offered any criticism of rent controls. He argued that the Liberals' policy would result in the government becoming the sole financier of rental housing. The eventual winner, Larry Grossman, in the words of the Globe and Mail "fudge[d] on rent controls and the ability of the market to build rental housing".[62]

Bernard Ghert, president of Cadillac Fairview Corp. and also president of the Canadian Institute of Public Real Estate Companies, noted that David Peterson, like Bill Davis, would find it politically expedient to keep rent controls in place. He said Peterson's "first job is to maintain himself in power. [The government] knows it's a problem. They'd like to get rid of [rent controls] but everyone's saying it just can't be done."[63] Cadillac Fairview had sold off its residential rental units -- including almost 11,000 units in a package in 1982 that, when it was subsequently resold at a large profit prompting a major inquiry into several trust and mortgage companies and new legislation limiting rent increases attributable to refinancing after a sale. (See Morrison, 1983; Corcoran and Reid, 1984.)

A senior executive of Bramalea Ltd., a major developer, indicated that his company had cancelled plans to build more rental units now that such new units would come under controls. His firm was prepared to build units in the "lower luxury class" without government subsidies in light of lower rates of inflation (under 5%) and lower interest rates (about 10-12% depending on the term).[64] He said that the extension of controls to new buildings makes it very difficult to estimate future profits. Controls "don't allow you to increase your return on equity" even if it is very low -- as would be the case of new units built without subsidy.

The Financial Post noted that in a recent speech the Liberal's Housing Minister had announced a rehabilitation assistance plan designed to improve one-quarter of the rental stock in need of repairs and upgrading. The Minister had also announced plans to create an advisory committee of tenants and landlords designed to foster better relations between the two groups and to advise him on housing policy.[65]

Landlords, however, had recently established a new interest group, the Fair Rental Policy Organization. It would try to educate the public about the higher taxes needed to finance subsidies to create more rental housing, the environmental costs of less intensive land use of single-family dwellings rather than highrise rental buildings, and the pressure on house prices due to the scarcity of rental housing.

8.0 SEWELL IN A CIRCLE

On December 9, 1985, Globe and Mail columnist John Sewell, a former mayor of Toronto, began a remarkable series of seven consecutive columns on the subject of rent controls. The implications of Sewell's initial columns was that he was becoming more critical of controls and that he might find, on balance, that they do more harm than good. He began by referring to Stanbury's (1985a) study for the Thom Commission, particularly the evidence on economic conditions in 1975 and the arguments made in support of the imposition of controls. Sewell noted that "examples of gouging [the most politically potent argument for controls] were exceptions ... large rent increases were not the general rule."[66]

In his second column Mr. Sewell refered again to Stanbury's (1985a) analysis of the normative arguments for rent control and summarized the conclusions by saying that "few of these justifications hold up to careful analysis." With respects to the "affordability justification, Sewell said that "affordability is too large a problem to be effectively addressed by rent controls. Indeed, substantial evidence indicates that the middle class benefits most from controls, and some of that benefit is at the expense of lower income families. Controls might worsen the affordability problem".[67] However, Sewell concluded that "the only persuasive justification for controls is that they are a crucial part of tenant security". Controls are necessary, in his view, to prevent economic eviction thereby making security of tenure meaningful. In drawing this conclusion Sewell adopted one of the core arguments of the advocates of rent controls in Ontario.

Sewell devoted his third column to the issue of how much higher rents would have been if controls had not been imposed in 1975.[68] He referred to four studies for the Thom Commission: Mascall (1985), Stanbury & Vertinsky (1985), Steele and Miron (1984), and Ekos Research (1985). He noted that the Mascall study found little evidence of "key money" and that it was confined largely to a few "hot spots" close to the core of Toronto. Sewell stated that evidence on the level of maintenance under controls is that between 1977 and 1981 tenant satisfaction was unchanged. With respect to rent levels Sewell was implicitly referring to the study by Fallis and Smith (1985), discussed in Stanbury and Vertinsky (1985), which concluded that as of 1982 rents in the controlled sector were about 11% below the level they would be in the absence of controls. He noted that Steele and Miron (1984) concluded that the gap was not more than 7.5%. Sewell's conclusion regarding the effects of rent controls on rent levels and key money was quite sanguine:

> It seems that after 10 years, on average, the effect of controls on market rent levels in Ontario has been very small, just a few percentage points. These averages, of course, get skewed in the few areas (such as specific buildings in downtown Toronto) where key money is paid.

In his fourth column Mr. Sewell picked up on Stanbury and Vertinsky's (1985) point that "a fruitful analysis of rent regulation in a particular jurisdiction requires that very close attention be paid to the details in the design of that system and to the 'nitty gritty' of how that system is implemented in practice."[69] He emphasized that Ontario's system with its pass-through provisions "bears no relation to the particulars of rent controls in New

York City." In particular, he emphasized that the New York experience, which had been described by a former New York official before the Thom Commission, was no guide to that in Ontario: "There is no evidence that controls have destroyed the supply of good housing in Ontario".

Sewell had promised to devote column #5 to the effect of controls on the construction of new housing, "a most contentious issue." However, he began this column with the question, "Will the end of rent controls in Ontario be a boom to construction of new rental units?"[70] He quoted, one of the landlords (Bill Grenier) who had created the Fair Rental Policy Organization (FRPO) as saying if controls were removed that new construction would expand to the point of over supply and rents would be discounted. The former CEO of Bramalea Construction was quoted as saying that if controls were removed now "you would have an immediate and dramatic upsurge in rental construction." But Sewell noted that a study by Clayton Research (1984) for the Canadian Home Builders' Association argued that rents would have to rise by 25% to spur significant amounts of new construction.

Then Sewell argued that if controlled rents are in fact only 11% below the equilibrium level, eliminating controls would have little effect on new construction. In this view, the implication is clear that either (i) the Fallis and Smith estimate is far too low, (Sewell states that Bill Grenier of FRPO has a study indicating that rents would rise 32% if controls were removed), hence little new construction would be stimulated by the removal of controls, or (ii) that much larger increases in rent levels will be necessary to stimulate new construction. He quoted Jack de Klerk, "a tenant lawyer", who concludes that the effects of rent review are "marginal" in terms on their impact the willingness of investors to put their money into rental buildings. Sewell also quotes Dale Martin, formerly of the FMTA, now Toronto alderman, who argues that

> People still are investing in rental buildings - apartments are still changing hands. But now rental housing is seen as a secure investment with a reasonable rate of return. The nature of the investment has changed.[71]

Sewell concluded in his fifth column that "whether removing controls would actually lead to an increased supply of rental units remains in consideration doubt."

Column 6 was devoted to the issues of key money and affordability.[72] Sewell quotes Bill Grenier on the matter of key money as saying that "rent control makes thieves of us all." He quotes Dale Martin who sees key money as evidence of strong demand for a few preferred locations. In his view, "There's no reason why landlords should get the financial benefits of location, especially since good location usually depends upon public investments like subways and parks." According to Martin, key money can be prevented by having a rent registry.

Sewell also quotes Martin on the matter of affordability. Martin uses the argument similar to the one advanced by his fellow alderman, Ron Kanter, at the Thom Commission hearings in 1984. (That argument is described in detail in Stanbury, 1985a, Ch. 5). Martin is quoted as saying:

> The most positive effect of controls in the long term is that they have the effect of retaining the affordable housing stock. The problem with the market is that it leads to an income-stratified city radiating out from the centre.

In other words, rent controls preserve the socio-economic mix of the downtown core as low-income families are able to continue to live in rent controlled units in the core. According to Sewell, Bill Grenier saw the issue rather differently: "With controls, there's no incentive for wealthy tenants in cheap apartments to move, and since they don't move, low-income families can't get into those units."

Sewell, noting that as many as one-quarter of tenant households have an affordability problem, acknowledges that "affordability is not a problem created by controls..." Moreover, he also acknowledges that "the effect of controls one way or the other seems marginal in comparison with the problem."

Finally, Sewell comes to his "bottom line" position in column 7: "rent controls as practiced in Ontario should be retained."[73] He continues by saying that any amendments to the system "should be reviewed carefully to retain the balance between protection and flexibility that has made the existing regime successful. But in no case should we return to an arrangement that relies on 'market' forces to distribute rental housing."

The primary bases for Sewell's conclusion is that (i) the effects of controls are either not adverse or indeterminate, and (ii) "controls give reality to security of tenure." They are "a form of consumer protection." Sewell reverts to the argument that rental housing is a unique commodity that is unsuited to market allocation. Moreover, he argues, rent control is just one of many types of government intervention "erected to protect people from the strange (and sometimes unfair) workings of the market." According to Sewell, controls prevent economic eviction and protection "for those desiring a secure home in a world that already changes too fast."[74]

When Sewell states that "controls might have some costs, but in general - on average - they are a useful tool" and that "they have served Ontario well", is he taking into account the vast increase in public expenditures to subsidize rental housing? For example, on December 16 the Ontario Minister of Municipal Affairs and Housing announced that his ministry planned to spend $500 million over the next five years on housing programs.[75] (This includes $75 million in interest free loans to builders who construct low - and medium - priced units and $276 million for subsidies and loans for non-profit and co-operative housing. At no point in his seven columns did Sewell connect the previous and planned growth in subsidies for rental housing with rent controls.[76]

9.0 ASSURED HOUSING FOR ONTARIO

On December 16, 1985 the Minister of Municipal Affairs and Housing published position paper entitled Assured Housing for Ontario.[77] In his speech accompanying the policy statement the Minister stated that his program was based on five main elements:

- First, a fair and effective system for protecting the rights of tenants;
- Second, a policy of equitable treatment for owners of rental property, in a climate of increased confidence;
- Third, prompt measures to meet essential housing needs, with the government assuming an active role;
- Fourth, a commitment to a dynamic, efficient building industry which will continue to be a major source of employment in Ontario; and,
- Fifth, an era of improved cooperation and conciliation among governments, producers and consumers of housing throughout this province. (Curling, 1985, pp. 4-5).

The Minister stated that his new policy rested on "four pillars":

- An improved housing supply;
- A new rent review system;
- A building industry strategy that will promote employment; and
- Finally, the effective use of government-owned lands for housing. (Curling, 1985, p. 6).

Recognizing the delicate political balance that is inherent in rent controls, the paper stated that adequate accommodation at a reasonable cost is a "basic need." But the document also stated that landlords have a right to make money from their housing investments. According to the Minister, Mr. Curling, "It would be political suicide not to give tenure to tenants and not treat landlords fairly." With respect to rent review, Assured Housing for Ontario contained the following proposals:

- Creation of a Rent Review Advisory Committee of landlords and tenants to provide advice to the Housing Minister (the co-chairpersons are Mary Hogan, director of the Parkdale Community Services - which represents tenants, and William Grenier, chairman of Pagebrook Holdings, and head of a landlord's association);
- Reduction of the guideline or statutory rate of increase from six to four per cent effective August 1, 1985 for a period of one year;
- Inclusion of units built after 1975 under rent review;
- Expansion of rent review legislation to cover units renting for more than $750 per month;
- Creation of a rent registry as recommended by Commissioner Thom (1984) (to be based on rents in effect July 1, 1985);
- Extension of five per cent maximum refinancing cap (effective in 1982) due to expire at the end of 1985;
- Introduction of a costs-no-longer-borne provision (i.e., reduction in mortgage interest rates);
- Introduction of a fixed operating cost increase allowance to streamline the rent review process;
- Introduction of a provision to allow for the elimination of economic losses for units constructed after 1975;
- Restructing of the Residential Tenancy Commission to provide for a new non-adversarial system of rent review;
- Creation of a network of rent review advisors to handle rent review applications;
- Creation of a Rent Review Hearings Board to hear appeals of rent decisions;
- Creation of an inter-ministerial committee to examine ways to assist needy tenants and to assist pre-1976 landlords charging chronically reduced rents; and
- Creation of a committee to study the best methods of protecting boarders and lodgers (summary provided by Ministry of Housing, 1985).

The new policy document illustrates the public sector costs of rent control in the form of subsidies of various types to create more new rental units. Here is a list of the more important "housing initiatives":

- More than $500 million to be spent on housing initiatives over the next five years.

- Non-profit and co-operative housing groups to get an estimated $208 million in subsidies plus $68 million development loans.

- Subsidies will support production of more than 43,000 new rental units: 32,000 social housing and a total of 11,000 market units.

- Interest-free loans totalling $75 million to builders under the rental supply program Renterprise, to help produce 5,000 new market rental units. Up to 40 per cent will be rented on a geared-to-income basis.

- Convert-to-Rent program expanded to include loan assistance for production of hostel-type accommodation for singles, and new rental housing within single-family homes. Six thousand new units to be produced over the next three years at a cost of $39 million. Some units will be geared to income of tenants.

- $34 million for rent-geared-to-income subsidies in the Renterprise and the Convert-to-Rent programs.

- $100 million in loans will be made available for the upgrading of 18,500 older rental units: $88 million for upgrading 17,000 units in low-rise buildings; and $11 million for 1,5000 units in high-rise properties. The high-rise project will assess the need for repair work and its impact on tenants and landlords (summary provided by the Ministry of Housing, 1985).

In general terms, the goal of the new policy, according to the Minister, is to achieve the construction of an average of 69,000 new housing starts (rental and ownership) over the next five years. Among other things, this volume of new starts is necessary to "raise the vacancy rate to a competitive and manageable level" (Curling, 1985, p. 16).

The major items to be included in legislation optimistically "expected to be enacted before Christmas" were the following:

- reduction of the statutory rate of rent increases from 6% to 4% retroactive to August 1, 1985; this rate to apply until August 1, 1986;

- extension of controls to units renting for $750/month or more;

- extension of controls to buildings first occupied after January 1, 1976 (previously exempt from controls); and

- placing a cap of 5% on rent increases attributable to refinancing following the sale of a building.

Three of these four items were in fact included on Bill 77 which was introduced later in December. Mr. Curling made a clear long-term commitment to rent regulation by saying that as of 1987 the rent increase guideline (statutory rate) will be tied to inflation: "The guideline will be set annually at a rate linked to, but not as high as the rate of inflation."[78] The delicate balancing of interests was evident in Mr. Curling's statement to the effect that landlords of older buildings who are "locked into chronically depressed rents" will be able to go before a committee set up by the government to obtain "more realistic rents" -- without passing on the increases to tenants who cannot afford them (see Ontario Ministry of Housing, 1985b, pp. 7-9).

Accordingly to the Globe and Mail, "representatives of tenant groups were pleased that the Government kept several of the housing promises outlined in the Liberal-NDP accord, but they were not as happy as the developers." Bill Grenier of FRPO said he was "cautiously optimistic" after the Ministers' announcement. Leslie Robinson of FMTA stated, "We're nervous about what has not yet been hammered out. The details are what will be really important." She was apparently referring to those issues to be sent to a legislative committee: the rent registry, and methods by which landlords can appeal for increases above the new statutory rate. For example, owners of buildings just now being brought under controls (those occupied after January 1, 1976) may be permitted to argue for increases based on the need to earn an adequate rate of return.

The Ministry of Housing was concerned about the combined effects on new buldings of reducing the statutory rate to 4% from 6% while providing for the phase in of financial losses and an allowable return on equity over a five year period. Therefore, it commissioned Price Waterhouse consultants to do a study to determine maximum rent increases for post-1975 buildings under two basic sets of conditions:

(a) the existing rules for the computation or rent increases; and

(b) the proposed new rules (8%, 10%, 12% return factor).

The Ministry of Housing (1985b, pp. 18-19) cited the following extract from the Price Waterhouse Report:

> "Results:
> The models developed which compare projections based on current rent review regulations to projections based on proposed rent review regulations yield the following results:
>
> - potential rent increases are significantly greater in Year One under the projections of the proposed regulations, assuming maximum allowable rent increases are obtained by a landlord for a building's local area;
> - under both the current and proposed rent review models, annual rent increases appear to level out at the rent review guideline rate of increase;
> - under the proposed rent review model, projected rates of return increase throughout the five year phase-in period; and
> - with the assumption that maximum rent increases are attainable, that is, a tight supply of rental accommodation, there appears to be a greater potential for significantly higher initial year rental increases under existing rent review rules, but that absolute rent levels may increase over time to slightly higher levels under the proposed rent review regulations.
>
> A specific question posed by the Ministry was "If the proposed rules result in a higher propensity to build rental accommodation, will the probability of maximum rent increases be reduced? If the rate of return used in the proposed alternative proves adequate to generate investment in new buildings, it would appear self-evident that the additional supply should result in a lower probability of attaining maximum rent increases in the market."

The Ministry then stated its conclusion:

> There are several factors that lead the Government to conclude, that in respect to pre-1976 rental buildings, average rental increases will be less than in previous years.

Editorially, the Globe and Mail condemned the Minister's policy proposals saying he had "galloped off in the wrong direction", and that his proposals "will drive the stake of rent control deeper into the heart of the province's rental housing market..."[79] The Minister's document, the Globe and Mail noted, identified a number of the problems associated with the present rental housing market: chronically low vacancy rates; declining standard of maintenance in some buildings, a lack of capital improvement in others; increasing acrimony between landlords and tenants; and "the virtual collapse of new rental construction." In the Globe's view, these are all attributable to rent controls. The editorial concluded as follows:

> The Government refers to its fiddling, some of which will temper the injuries done by rent control, as 'reform'. It will not concede that the best reform would be to phase out controls gradually, provide shelter allowances for those who need them and encourage the market to supply new units to meet an overwhelming, frustrated demand.[80]

Columnist Orland French wondered why tenants were cheering about Mr. Curling's proposals. In his view, "the rent review balance, a rusty outmoded legislative device loaded in favor of the tenant, has been trimed to please landlords and developers.[81] French's conclusion was apparently based on the idea that some landlords will be entitled to a return on their investment. According to French, "tenants who live in small apartment buildings constructed before 1976 will find their rents rising." Adjustments will be made where it is determined that the rents in 1975 when controls were imposed were depressed below market rates. In addition, French noted that the government proposed to allow landlords to raise rents of similar units to the "going rate" for such units. Rent increases permitted for recently constructed buildings may be higher than the new statutory rate to allow rents to use break-even plus a profit margin. (See Ontario Ministry of Housing, 1985b, pp. 7-9.)

The purpose of the set of policy proposals, according to French, was to provide "bait to encourage private companies to build rental units. Without that incentive the rental crisis which is already upon us would only deepen." He concluded that the policy, while not comprehensive, showed "some semblance of reality."

10.0 CONCLUSIONS

Rent controls create a type of "cat and mouse game." Landlords search for ways of reducing the adverse impact on their economic position. They try to find ways of getting their units out of the controlled sector by conversion to condominiums, by major renovations which raise the rent to the exempt level, and by demolishing old buildings and using the land for some other purpose. Not surprisingly, tenant groups try by political means to close the "loopholes" found by landlords. For example, they have lobbied local governments to imposed additional controls on conversion, renovation and demolition by denying the necessary permits. At the same time, tenants have sought to "tighten up" provincial regulations to prevent any further "erosion" of the stock of rent controlled units.

Both tenants and landlords face exogenous forces that put pressures on the control system. The three most important are the rate of inflation (particularly in the costs of operating rental buildings), higher interest rates, and increases in the demand for rental accommodation (new household formation, in-migration). As the rate of inflation rises above the guideline or statutory allowable rate of increase in rents landlords pressure the government to increase the rate. They also make more use of rent review to obtain increases above the guideline rate that more closely reflect increases in their costs.

The pressure of inflation is compounded when mortgage interest rates also rise sharply. When renewing a mortgage landlords may find that interest rates have increased by 50% to 100%. In some cases, refinancing may be accelerated by a sale as a landlord tries to withdraw his capital from the industry. When interest rates fall, tenants, not surprisingly, press politicians for changes in the regulation that would require a decrease in rents where a landlord is able to obtain a lower rate of interest on his mortgage. In addition, when the general rate of inflation falls to below the guideline rate tenants lobby the government to lower the statutory rate. They enlist the aid of opposition parties in doing so. Tenants seek to prevent landlords from obtaining any "catch up", i.e., rent increase that would close the gap between controlled rents and market rents.

Landlords and tenants may "opt out" of controls by agreeing on rent increases that are above the legal limit. Both sides may feel that adherence to the law is unfair and even counterproductive. The higher rents may be in exchange for a higher standard of repairs and maintenance than the landlord would be willing to provide if he was forced to stay with the legal rent. Indeed, a reduction in maintenance and related services (doorman, recreational facilities, etc.) is a well known way that landlords try to reduce their costs when their revenues are constrained. In effect, landlords try to redefine the bundle of services that they provide for the controlled level of rent - see Stanbury and Vertinsky (1985, Ch. 4). Tenants are aware of this and press legislators and the administrators of rent controls for legislation to prevent this from happening or for smaller rent increases where it occurs.

The more successful controls are in holding rents below the equilibrium level, the higher - in relative terms - will be rents on the uncontrolled sector. Tenants unlucky enough to have to live in an uncontrolled unit resent the fact and seek to have the "protection" of controls extended to the exempt sector. The landlords who built new buildings under the earlier assurance that controls would not apply to them are outraged. They lobby to prevent the spread of controls telling politicians and tenants that it is unfair to change the rules after the game is underway. They also argue that the private, unsubsidized rental market will disappear if all units are controlled.

The advocates of controls say that the rate of new construction has little to do with the existence of controls-interests rates, soaring construction costs and indirect subsidies are more important factors. In any event, tenant groups point to low vacancy rates and demand much more money for public housing, co-op housing, and subsidies for private rental buildings. Governments comply since it is apparently easier to raise taxes than to eliminate rent controls. Indeed, one commentator argues that enacting rent controls is like riding a tiger - there is no safe way to get off.

While the principle of rent regulation is deeply entrenched in Ontario a decade after it was enacted, history of such regulation exhibits certain dynamic characteristics. Rent regulation is a game characterized by a series of adjustments by all the actors to exogenous events, and to the actions of other actors seeking to improve their position. Landlords try to escape the strictures of controls; tenants try to keep or enlarge the economic benefits they have won in the political arena; and political parties weigh the political support of tenants and landlords. Each political party also has to respond to the competition of its rivals.

The battle over rent controls increases the risk of owning existing rental buildings and of investing in new ones. The extension of controls to the post-1976 buildings (i.e., those built after controls) validates the arguments of economists and landlords/investors that the politics of controls adversely affects the supply of new rental buildings - even if they are exempt from controls - because of the risk that such buildings will later be brought under controls. This higher risk results in the supply curve for new units shifting up and to the left. Moreover, it does not follow that because all rental buildings are now subject to controls that the risk of owning them has been reduced. The point is that if tenant groups are capable of pressuring politicians to extend the scope of controls, they may also be capable of pressuring them into making them more stringent (e.g., reducing the statutory rate or limiting the cost pass through provisions), and thereby reducing the landlord's rate of return. In summary, it is the politics of rent controls that creates the risk for landlords and adversely affects the supply of new rental units. We note that tenants also bear risks under controls. Their rents could rise sharply (given excess demand) if landlord groups are able to persuade the government to relax the stringency of controls.

We would predict that while rent controls will remain in place for the indefinite future, they do not represent a "settled" issue in political terms. This is true not only for the reasons mentioned, but also because of internal "logic" of controls themselves. The "better" they work, i.e., hold rents below the equilibrium level, the greater the pressures they create on landlords, tenants and government. The greater the unanticipated "rent gap", the stronger the incentives landlords have to escape from controls, to evade controls, or to alter the bargain, e.g., by reducing maintenance. As the rent gap grows larger tenants (particularly sitting tenants) become more aware of the value of controls to them. They have more to fight for. Governments too are under pressure if the rent gap grows because vacancy rates will be low and the incentive to build new (unsubsidized) rental units will be close to non existant, particularly if all new units are subject to controls. Therefore, governments will face demands for larger direct or indirect subsidies for rental housing.

It should be noted, however, that even severe pressures on all the actors are unlikely to result in the system "blowing up". That is a very rare occurrence in complex social systems. Rather, incremental changes are made to relieve some of the pressure. For example, a higher level of "cheating" may be tolerated. The technical aspects of the cost pass-through rules may be changed so that landlords can obtain more revenue. Subsidies can be increased and/or more public housing units built. In summary, rent regulation provides an excellent illustration of a public policy that changes in a process of disjointed incrementalism. In other words, it reflects the fact that in a democracy most public policies are a complex amalgam of politics and economics conducted in a world of imperfect information, substantial transaction costs, relatively short time horizons and a great deal of self interest.[82]

Notes to Chapter 9

1. "In cautious steps", Globe and Mail, January 18 (?), 1985, p. 6.

2. The Globe and Mail, January 22, 1985, p. 6, had described Larry Grossman as the most impressive candidate the man most likely to continue the renewal process within the Conservative Party. The editorial concluded: "Larry Grossman would make the best party leader".

3. Andrew Cohen, "Miller has learned to be flexible", Financial Post, January 26, 1985, p. 28.

4. Ibid.

5. John Cruickshank and Drew Fagan, "Ontario Government toughens rent controls", Globe and Mail, March 21, 1985, pp. 1,5.

6. Toronto Star, April 17, 1985.

7. See note 5, p. 1.

8. Carolyn Green, "Ontario rent rise curb upsets developers", Financial Post, March 30, 1985, p. 3.

9. Ronald Anderson, "Conservatives ignore logic in sticking to rent controls", Globe and Mail, March 22, 1985, p., B2.

10. Andrew Cohen, "Miller walking hustings line", Financial Post, March 30, 1985, p. 4.

11. Orland French, "High-wire hijinks heat up", Globe and Mail, March 22, 1985, p. 7.

12. See note 7.

13. Ibid.

14. Ibid.

15. This is an extremely optimistic estimate -- it could only occur if the spending on new units required no materials, no land and each the cost of labour was person-year $20,000.)

16. Ibid.

17. Michael Adams et al., "Ontarians divided on RC funds, poll shows", Globe and Mail, April 24, 1985, pp. 1,3.

18. "The 10-year error (2)", Globe and Mail, April 24, 1985, pp. 1,3.

19. "To start afresh", Globe and Mail, May 1, 1985, p. 6.

20. The turnout, 58%, was the lowest since 1923.

21. Mary Janigan, "A Remarkable Liberal Upsurge," Maclean's, May 13, 1985, pp. 10-18 at p. 10 and p. 17.

22. "Life with Liberals", Globe and Mail, May 18, 1985, p. 6.

23. "Timbrell appointment concerns tenant group", Globe and Mail, May 18, 1985.

24. See "Agreement sets out blueprint for alliance of NDP, Liberals", Globe and Mail, May 29, 1985, p. 4. More generally, see John Cruickshank, "Liberals, NDP sign 2-year deal", Globe and Mail, May 29, 1985, pp. 1,2; Denise Harrington, "NDP can vote against Liberals and not force a new election", Toronto Star, May 28, pp. A1, A19.

25. Ibid., "Agreement sets ...".

26. A 1983 study by CMHC of its co-op and non-profit housing program - section 56.1 - showed that, in present value terms, the cost per unit was $47,000. See CMHC (1983).

27. Bertrand Marotte, "Grit-NDP accord raises eyebrows among experts", Globe and Mail, May 27, 1985, p. 4.

28. Duncan McMonagle, "Democracy suspended, Miller asserts", Globe and Mail, May 29, 1985, p. 1.

29. Heather Mallick, "Tories lost principles, MPP says", Globe and Mail, May 27, 1985, p. 4.

30. Pat McNenly, "Industry warns of higher taxes if rent control extended", Toronto Star, May 28, 1985, p. A10.

31. Ibid.

32. Ibid.

33. William Clark, "Tenants like pact's ideas on rent limits", Toronto Star, May 29, 1985, p. A15.

34. Ibid.

35. Ibid.

36. Bill Walker, "Tories wanted deal at all costs Rae declares", Toronto Star, May 29, 1985, p. A14.

37. Robert Miller, "An anti-Tory alliance in Ontario", Maclean's, June 3, 1985, p. 13.

38. See note 36.

39. Robert Stephens, "PCs offer last-ditch package, Ontario Speech a sharp reversal", Globe and Mail, June 5, 1985, pp. 1,4. See also Ross Howard, "Miller lauds intervention, overturns philosophy", Globe and Mail, June 5, 1985, p. 4.

40. Ibid., p. 1.

41. Ibid., p. 4.

42. Quoted in "In the Tory twilight" (editorial), Globe and Mail, June 5, 1985, p. 6.

43. Orland French, "Shameful switching of stand", Globe and Mail, June 5, 1985, p. 7.

44. See note 42.

45. Ross Laver, "The passage of power in Ontario", Maclean's, July 1, 1985, p. 14.

46. Ibid.

47. Robert Stephens, "Tighter rent control on Liberal agenda", Globe and Mail, July 3, 1985, pp. 1,5.

48. Because the $750/month exemption had been eliminated in October 1984, the new Premier was apparently saying that units that had been previously exempt, due to having their rents rise above $750/month, would be brought under controls.

49. "Rhetoric on rents", Globe and Mail, July 8, 1985, p. 6.

50. Ibid.

51. "Out with uncertainty" (editorial), Globe and Mail, July 11, 1985, p. 6.

52. Orland French, "Tenants coddled by controls", Globe and Mail, June 13, 1985, p. 7. In a column published on July 6, 1983 Mr. French, also writing on rent control, stated "Voters seek instant gratification. They don't have long memories."

53. Albert D. Friedberg, "A scheme to wipe out rent controls and please both landlords and tenants", Kingston Whig-Standard, June 13, 1985.

54. Nicholas J. Patterson, "The view rent control rules likely to produce a crisis", Globe and Mail, July 5, 1985, p. 7.

55. Orland French, "Sifting the views on rents", Globe and Mail, July 31, 1985, p. 7.

56. Douglas Purvis and Richard Lipsey, "Ontario killing rental market", Financial Post, July 27, 1985, p. 7.

57. Ibid.

58. Letter to the editor, Financial Post, September 28, 1985, p. 8.

59. Ibid.

60. Orland French, "Future law in effect on rents", Globe and Mail, September 18, 1985, p. 7.

61. Ibid. French had emphasized this theme before, see Stanbury (1985c).

62. "As the Tories choose" (editorial), Globe and Mail, November 15, 1985, p. 6.

63. Carolyn Green, "Rent curbs upheaval", Financial Post, November 30, 1985, pp. 1,2.

64. Ibid.

65. Ibid.

66. John Sewell, "Rent controls (1): unexpected answers," Globe and Mail, December 9, 1985, p. A5. This column also referred to the earlier draft of this study.

67. John Sewell, "Rent controls (2): dispelling my ths," Globe and Mail, December 10, 1985, p. A5.

68. John Sewell, "Rent controls (3): the bottom line," Globe and Mail, December 11, 1985, p. A5.

69. John Sewell, "Rent controls (4): apples and oranges," Globe and Mail, December 12, 1985, p. A5.

70. John Sewell, "Rent controls (5): effects on supply," Globe and Mail, December 12, 1985, p. A5.

71. It should be noted, however, that the turnover of rental buildings says nothing about the rate of return actually realized by investors. For example, the owners of buildings on the day controls are first imposed might sell them a few years later at a large loss, particularly if opportunity costs are taken into account. The subsequent owner may believe that the lower price he paid will permit him to earn a normal return under controls. However, a further, unanticipated tightening of controls could reduce the market value of rental buildings again and this would be recognized only when the building is sold again.

72. John Sewell, "Rent controls (6): affordability problem," Globe and Mail, December 16, 1985, p. A5.

73. John Sewell, "Rent controls (7): province well-served," Globe and Mail, December 17, 1985, p. A5.

74. But how, one might ask, does Sewell deal with the fact that over the past decade, in the 10 Ontario Census Metropolitan Areas, each year over 40% of tenants move out of their rented premises. In most cases they move voluntarily to other rental units. Is this evidence of a strong desire for "a secure home in a world that already changes too fast"?

75. Regina Hickl-Szabo, "Ontario housing policy could let rents increase," Globe and Mail, December 17, 1985, p. A2.

76. On this point see Patterson (1985) and Chant (1985).

77. See note 75 and Ontario Ministry of Housing (1985a).

78. Ibid., Globe and Mail, December 17, 1985, p. A2.

79. "From bad to worse," Globe and Mail, December 17, 1985, p. 6.

80. Ibid.

81. Orland French, "Tenants to finance fairness," Globe and Mail, December 17, 1985, p. 7.

82. All of these factors can be seen in the battle over the conversion of the rental units involved in the notorious November 1982 sale of almost 11,000 rental units by Cadillac Fairview Corp. to Greymac Credit Corp. and then to Kilderkin Investments Ltd. See Richard Haliechuk, "Tenants claim pressure on condo conversion," Toronto Star, February 8, 1986, p. A13; David Lewis Stein, "Toronto must stand fast on condo conversion," Toronto Star, February 7, 1986, p. A7. Diane Francis, "Fast Eddy's condo conversion plan is opposed by misguided populists," Toronto Star, February 7, 1986, p. E2. John Sewell, "Conversion plan is undesirable," Globe and Mail, February 19, 1986, p. A8, and "Controls for condos" (editorial) Globe and Mail, February 24, 1986, p. A6.

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Research Studies

The following is a list of papers commissioned by the Inquiry.

No.

1 Slack, Enid and Sherry Glied. Rent Registry Alternatives.

2 Reid, Frank. Collective Bargaining for Tenants.

3 Jaffary, Karl D. Problems in the Regulation of Rents for Roomers and Boarders.

4 MacDonald, Daniel V. Constitutional Reference Re: The Residential Tenancies Act.

5 Fallis, George. Possible Rationales for Rent Regulation.

6 Hulchanski, J. David. Market Imperfections and the Role of Rent Regulations in the Residential Rental Market.

7 Sharp, Campbell, Pannell Kerr Forster Campbell Sharp. Survey of Financial Performance of Landlords.

8 Marks, Denton. Housing Affordability and Rent Regulation.

9 Steele, Marion and John Miron. Rent Regulation, Housing Affordability Problems, and Market Imperfections.

10 Clayton Research Associates Limited. Rent Regulation and Rental Market Problems.

11 Makuch, Stanley M. and Arnold Weinrib. Security of Tenure.

12 Hartle, D.G. The Political Economy of Residential Rent Control in Ontario.

13 Slack, Enid and David P. Amborski. The Distributive Impact of Rent Regulation.

14 Knetsch, Jack L., Daniel Kahneman and Patricia McNeill. Residential Tenancies: Losses, Fairness and Regulations.

15 Stanbury, W.T. Normative Bases of Rent Regulation.

16 Stanbury, W.T. Normative Bases of Government Action.

17 Stanbury, W.T. and P. Thain. The Origins of Rent Regulation in Ontario.

18 Stanbury, W.T. and I.B. Vertinsky. Rent Regulation: Design Characteristics and Effects.

19 Chant, John. Overview of Alternative Rental Housing Policies.

20 Foot, David K. Housing Demands: A Demographic Perspective.

21 Quirin, G. David. Regulatory Systems and their Applicability to Rent Controls.

22 Mascall, M. and Associates. Report of the Ontario Rental Housing Market.

23 Environics Research Group Limited. Financing Residential Rental Accommodation: A Survey.

24 Ekos Research Associates Inc. A Study of Landlords and Rent Regulation.

25 des Rosiers, Francois. A Rent Control System in Quebec.

26 Slack, Enid. The Costs of Rent Review in Ontario.

27 Muller, Andrew. Workable Rent Regulation: A Synthesis.

The following is a list of papers prepared by the research staff of the Inquiry.

28 Adams, Eric B., Pearl Ing and John Pringle. A Review of the Literature Relevant to Rent Regulation.

29 Adams, Eric B., Pearl Ing, Janet Ortved and Mary Jane Park. Government Intervention in Housing Markets: An Overview.

30 Pringle, John. Ontario's Residential Tenancies: A Statistical Profile.